

**30 TAC Chapter 312 – TCEQ “Sludge” Rule Revisions**  
**Appendix A: Suggestions for Creating a New Subchapter just for Domestic**  
**Septage**

**Suggested Language for Proposed New Subchapter on Domestic Septage**

Tracked changes intended to mirror Chapter 312 but limit this new chapter only to Domestic Septage. These changes are only intended to provide clarifications. They are not intended to make substantive changes to existing TCEQ rules that apply to domestic septage.

**SUBCHAPTER A: GENERAL PROVISIONS**

**312.1 Purpose**

This chapter establishes standards, which consist of general requirements, pollutant limits, management practices, and operational standards, for the final use or disposal of ~~sewage sludge generated during the treatment of domestic sewage in a treatment works, and for the final use or disposal of domestic~~ septage. Standards are included in this chapter for ~~sewage sludge and domestic septage applied to the land for beneficial use, or placed on a surface disposal site. Standards are also included in this chapter for sewage sludge fired in a sewage sludge incinerator. The standards applicable to the disposal of water treatment sludge are included.~~ Also included in this chapter are pathogen and vector attraction reduction requirements for ~~sewage sludge and domestic septage applied to the land or placed on a surface disposal site. In addition, the standards in this chapter include the frequency of monitoring and record keeping requirements when sewage sludge or domestic septage is applied to the land or placed on a surface disposal site. Also included are the frequency of monitoring and record keeping requirements when sewage sludge is fired in a sewage sludge incinerator.~~ Also included are requirements relating to the transportation of ~~sewage sludge, water treatment sludge, domestic septage, and chemical toilet waste, grit trap waste and grease trap waste.~~

**312.2 Applicability**

- (a) This chapter applies to any person who prepares ~~sewage sludge or domestic septage.~~
- ~~(b) This chapter applies to any person who fires sewage sludge in a sewage sludge incinerator.~~
- (c) This chapter applies to any person who applies ~~sewage sludge or domestic septage to the land and to the owner/operator of a surface disposal site.~~
- (d) This chapter applies to ~~sewage sludge or domestic septage applied to the land or placed on a surface disposal site.~~
- ~~(e) This chapter applies to sewage sludge fired in a sewage sludge incinerator.~~
- (f) This chapter applies to land where ~~sewage sludge or domestic septage is applied to a surface disposal site and to a sewage sludge incinerator.~~
- (g) This chapter applies to any person who transports ~~sewage sludge, water treatment sludge, domestic septage or, chemical toilet waste, grit trap waste, or grease trap waste. This chapter does not apply to oily water mixtures in waste management units such as tanks, fractionation tanks, and sumps that meet the design requirements of the American Petroleum Institute for oil/water separators or have been designed for oil-water separation. Recycling of oil-water mixtures from the waste management units designed for oil-water separation must comply with the requirements found in Chapter 324 of this title (relating to Used Oil Standards).~~ Waste in waste management units that do not meet the design criteria in this subsection and that are plumbed directly to a sanitary sewer are covered by this chapter.
- ~~(h) This chapter applies to the exit gas from a sewage sludge incinerator stack.~~

~~(i) This chapter applies to any person who applies water treatment sludge for disposal in a landfill, surface impoundment, or waste pile, as defined in 40 Code of Federal Regulations (CFR) §257.2.~~  
~~(j) This chapter applies to any person who applies water treatment sludge for disposal in a land application unit, as defined in §312.121 of this title (relating to Purpose, Scope, and Standards).~~  
~~(k) This chapter applies to water treatment sludge which is disposed of in a landfill, surface impoundment, or waste pile, as defined in 40 CFR §257.2.~~  
~~(l) This chapter applies to water treatment sludge which is disposed of in a land application unit, as defined in §312.121 of this title.~~

### 312.3 Exclusions

~~(a) This chapter does not establish requirements for processes used to treat domestic sewage or for processes used to treat sewage sludge prior to final use or disposal, except as provided in §312.82 and §312.83 of this title (relating to Pathogen Reduction and Vector Attraction Reduction).~~  
~~(b) This chapter does not require the selection of a method of use or disposal for sewage sludge. The determination of the manner in which sewage sludge is used or disposed is a local determination.~~  
~~(c) This chapter does not establish requirements for sewage sludge co-fired in an incinerator with other wastes or for the incinerator in which sewage sludge and other wastes are co-fired. Other wastes do not include auxiliary fuel, as defined in 40 CFR §503.41(b), fired in a sewage sludge incinerator.~~  
~~(d) This chapter does not establish requirements for the use and disposal of sewage sludge generated at an industrial facility, unless the sewage sludge is of a domestic origin and the sewage sludge is generated from the treatment of domestic sewage. If a process at an industrial facility that primarily treats industrial wastewater combines domestic sewage with any type of industrial solid waste, any resulting sludge, process waste or wastewater generated at the industrial facility will be considered to be industrial solid waste and must be processed, stored, or disposed of in accordance with the applicable requirements of Chapter 335 of this title (relating to Industrial Solid Waste and Municipal Hazardous Waste). If a facility that primarily treats domestic wastewater combines domestic sewage with any type of industrial solid waste, any resulting sludge, process waste or wastewater generated at the facility will be considered to be domestic sludge and must be processed, stored, or disposed of in accordance with the applicable requirements of this chapter.~~  
~~(e) This chapter does not establish requirements for the use or disposal of sewage sludge or other wastes determined to be a hazardous waste, as defined in §335.1 of this title (relating to Definitions) or as determined in accordance with 40 CFR, Part 261.~~  
~~(f) This chapter does not establish requirements for the use or disposal of sewage sludge with a concentration of polychlorinated biphenyls (PCBs) equal to or greater than 50 milligrams per kilogram of total solids (dry weight basis).~~  
~~(g) This chapter does not establish requirements for the use or disposal of ash generated during the firing of sewage sludge in a sewage sludge incinerator.~~  
~~(h) This chapter does not establish requirements for the storage of sewage sludge, grease trap waste, chemical toilet waste, or grit trap waste, except as provided for in §312.50 of this title (relating to Storage and Staging of Sludge at Beneficial Use Sites) and §312.147 of this title (relating to Temporary Storage). This chapter does not establish requirements for the processing, use or disposal of grease trap waste, chemical toilet waste, grit (e.g., sand, gravel, cinders, or other materials with a high specific gravity), screenings (e.g., relatively large materials such as rags) or other wastes generated during preliminary treatment of domestic sewage in a treatment works.~~

(i) This chapter does not establish requirements for the use or disposal of industrial septage or a mixture of domestic septage and industrial septage.

(j) This chapter does not apply to sludge, septage, or any wastes resulting from activities associated with the exploration, development, and production of oil or gas or geothermal resources, as defined in §335.1 of this title, except for domestic septage which may be collected at facilities where such activities occur, that is not mixed in any manner with other oil, gas, or geothermal wastes.

(k) Experimental use shall be excluded from the requirements of this chapter, provided the following conditions are met at the time the sewage sludge is placed on a beneficial use site or reclamation site:

(1) the metal concentrations established in §312.43(b)(3) (Table 3) of this title (relating to Metal Limits) shall be met;

(2) one of the vector attraction reduction alternatives in §312.83(b)(1)-(11) of this title shall be met;

(3) the pathogen reduction compliance requirements established in §312.82(a) or (b) of this title (relating to Pathogen Reduction) shall be met;

(4) the applicant shall receive written approval from the executive director prior to commencement of operations for the experimental project; and

(5) the applicant shall submit to the executive director the aims and goals of the project and any other additional information the executive director believes necessary to establish the experimental nature of the project.

~~and grease and grit trap waste, milk solids, or similar non-hazardous municipal or industrial solid wastes.~~

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(m) This chapter does not allow for the registration of sludge processing operations or facilities. Such facilities or operations are required to obtain a permit.

#### **312.4 Required Authorizations or Notifications**

(a) Permits. Except where in conflict with other chapters in this title, a permit shall be required before any storage, processing, incineration, or disposal of sewage sludge, except for storage allowed under this section, §312.50 of this title (relating to the Storage and Staging of Sludge at Beneficial Use Sites), §312.61(c) of this title (relating to Applicability), §312.147 of this title (relating to Temporary Storage), and §312.143 of this title (relating to Secondary Transportation of Waste). Any permit authorizing disposal of sewage sludge shall be in accordance with any applicable standards of Subchapter C of this chapter (relating to Surface Disposal) or §312.101 of this title (relating to Incineration). No permit will be required under this chapter if issued in accordance with other requirements of the commission, as specified in §312.5 of this title (relating to Relationship to Other Requirements).

~~-(1) Effective September 1, 2003, a permit is required for the beneficial land application of Class B sewage sludge. All registrations for the land application of Class B sewage sludge will expire on or before August 31, 2003. A person holding a registration to land apply sewage sludge who submitted an administratively complete permit application on or before September 1, 2002, may continue operations under the existing registration until final commission action on the permit application. For registrations that also authorize the use of Class A, sewage sludge, domestic septage, or water treatment plant sludge, only the provisions for the use of Class B sewage sludge will expire on August 31, 2003; the other provisions will expire on the expiration date of the registration or when a permit authorizing the use of Class A sewage sludge, domestic septage, or water treatment plant sludge is issued for the site.~~

~~-(2) The effective date of a permit is the date that the executive director signs the permit.~~

~~(2) Site permit information on file with the commission must be confirmed or updated, in writing, whenever the mailing address and/or telephone number of the owner or operator is changed, or whenever requested by the commission.~~

~~(4) If a permit is required under this chapter, all activities at the site under this chapter, except transportation, shall be incorporated in the permit.~~

~~(5) The commission may not issue a Class B sewage sludge permit for a land application unit that is located both in a county that borders the Gulf of Mexico and within 500 feet of any water well or surface water.~~

~~(b) Notification of certain Class A or Class AB sewage sludge land application activities.~~

(2) Any generator in Texas or any person who first conveys ~~sewage sludge~~ domestic septage from out of state into the State of Texas and who proposes to store, land apply, or market and ~~distribute sewage sludge~~ domestic septage meeting the standards of this subsection shall submit notification to the executive director, at least 30 days prior to engaging in such activities for the first time on a form approved by the executive director. A completed notification form shall be submitted to the Water Quality Division by certified mail, return receipt requested. The notification must contain information detailing:

(A) ~~sewage sludge~~ classification, all points of generation, and wastewater treatment facility identification;

(B) name, address, telephone number, and the longitude and latitude of the site for all persons who are being proposed to receive the ~~sewage sludge~~ domestic septage directly from the generator;

~~(C) a description in a marketing and distribution plan that describes any of the following activities:~~

~~(i) to sell or give away sewage sludge directly to the public, including a general description of the types of end uses proposed by persons who will be receiving the sewage sludge;~~

~~(ii) methods of distribution, marketing, handling, and transportation of the sewage sludge~~ domestic septage;

~~(iii) a reasonable estimate of the expected quantity of sewage sludge~~ domestic septage to be generated or handled by the person making the notification; and

~~(iv) a description of any proposed storage and the methods that will be employed to prevent surface water runoff of the sewage sludge~~ domestic septage or contamination of groundwater; and



(D) prior to land application, a map showing the buffer zone areas required under §312.44(c)(2)(D) and (E) of this title (relating to Management Practices) for all persons who are being proposed to receive the sewage sludge domestic septage directly from the generator that meets one of the Class AB pathogen reduction requirements in §312.82(a)(2) of this title.

(3) Thirty days after the notification has occurred, the activities regulated by this subsection may commence unless the executive director determines that the activities do not meet the requirements of this subsection or an applicant's permit. After receiving a notification, the executive director may review a generator's activities or the activities of the person conveying the sewage sludge domestic septage into Texas to determine whether any or all of the requirements of this chapter are necessary. In making this determination, the executive director will consider specific circumstances related to handling procedures, site conditions, or the application rate of the sewage sludge domestic septage. The executive director may review a proposal for storage of sewage sludge domestic septage, considering the amount of time and the amount of material described on the notification. Also, in accordance with §312.41 of this title (relating to Applicability), any reasonably anticipated adverse effect that may occur due to a metal pollutant in the sewage sludge domestic septage may also be considered.

~~(4) Annually, on September 1, each person subject to notification of certain Class A and Class AB sewage sludge activities required by this subsection shall provide a report to the commission, which shows in detail all activities described in paragraph (2) of this subsection that occurred in the reporting period. The report must include an update of new information since the prior report or notification was submitted and all newly proposed activities. The report must also include a description of the annual amounts of sewage sludge provided to each initial receiver from the in-state generator and for persons who convey out of state sewage sludge into Texas, the amounts provided from this person directly to any initial receivers and an updated list of persons receiving the sewage sludge. This report can be combined with the annual report(s) required under §312.48 of this title (relating to Reporting), §312.68 of this title (relating to Reporting), or §312.123 of this title (relating to Annual Report).~~

(c) Registration of land application sites.

~~(1) Effective September 1, 2003, registrations may only be obtained for the land application of Class A or Class AB sewage sludge that does not meet the requirements of subsection (b) of this section, water treatment plant sludge, and domestic septage.~~

(2) The effective date of the registration is the date that the executive director signs the registration in accordance with §312.12(d) of this title. Site registration information on file with the commission must be confirmed or updated, in writing, whenever the mailing address and/or telephone number of the owner or operator is changed, or requested by the executive director.

(d) Authorization. No person may cause, suffer, allow, or permit any activity of land application for beneficial use of sewage sludge domestic septage unless such activity has received the prior written authorization of the commission.

**312.5 Relationship to Other Requirements**

Disposal of sewage sludge or water treatment sludge in a municipal solid waste landfill unit, as defined in 40 Code of Federal Regulations (CFR) §258.2, that complies with the requirements in 40 CFR §257 and §258 constitutes compliance with §405(d) of the Clean Water Act (CWA). Any person who prepares

~~sewage sludge or water treatment sludge that is disposed of in a municipal solid waste landfill unit shall ensure that the sewage sludge or water treatment sludge meets the requirements in 40 CFR §258 concerning the quality of materials disposed of in a municipal solid waste landfill unit. Storage, processing, or disposal of sewage sludge authorized by a permit issued pursuant to §26.027 of the Texas Water Code will not require a separate permit authorization pursuant to this chapter, for the same activities. Sewage sludge or water treatment sludge that is disposed of in a municipal solid waste landfill unit, as defined in 40 CFR §258.2, is not subject to the fee schedules of this chapter.~~

#### **312.6 Additional or More Stringent Requirements**

On a case-by-case basis, the commission or executive director may impose requirements for the use or disposal of ~~sewage sludge~~, domestic septage in addition to or more stringent than the requirements in this chapter when necessary to protect public health and the environment from any adverse effect of a pollutant in the sewage sludge.

#### **312.7 Sampling and Analysis**

(a) Representative samples of ~~sewage sludge or~~ domestic septage that is applied to the land, or placed on a surface disposal site shall be collected and analyzed.

~~(b) Representative samples of sewage sludge fired in a sewage sludge incinerator shall be collected and analyzed.~~

(c) The following methods, other methods as approved by the executive director, or the latest revision shall be used to analyze samples of ~~sewage sludge or~~ domestic septage.

(1) Enteric viruses, ASTM Method D 4994-89, "Standard Practice for Recovery of Viruses From Wastewater Sludge," Annual Book of ASTM Standards: Section 11, Water and Environmental Technology, 1992.

(2) Fecal coliform, Part 9221 E or Part 9222 D, "Standard Methods for the Examination of Water and Wastewater," 18th edition, American Public Health Association, Washington, D.C., 1992.

(3) Helminth ova, Yanko, W.A., "Occurrence of Pathogens in Distribution and Marketing Municipal Sludges," EPA 600/1-87-014, 1987. NTIS PB 88-154273/AS, National Technical Information Service, Springfield, Virginia.

(4) Inorganic pollutants, Method SW-846 in "Test Methods for Evaluating Solid Waste," U.S. Environmental Protection Agency, November 1986.

(5) Salmonella sp. bacteria, Part 9260 D.1, "Standard Methods for the Examination of Water and Wastewater," 18th edition, American Public Health Association, Washington, D.C., 1992.

(6) Specific oxygen uptake rate, Part 2710 B, "Standard Methods for the Examination of Water and Wastewater," 18th edition, American Public Health Association, Washington, D.C., 1992.

(7) Total solids, fixed solids, and volatile solids, Part 2540 G, "Standard Methods for the Examination of Water and Wastewater," 18th edition, American Public Health Association, Washington, D.C., 1992.

(8) Percent volatile solids reduction, Percent volatile solids reduction shall be calculated using a procedure in "Environmental Regulations and Technology--Control of Pathogens and Vectors in Sewage Sludge," EPA-625/R-92/013, U.S. Environmental Protection Agency, Cincinnati, Ohio, 1992.

#### **312.8 General Definitions**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise.

(1) 25-year, 24-hour rainfall event--The maximum rainfall event with a probable recurrence interval of once in 25 years, with a duration of 24 hours as defined by the National Weather Service in Technical

Paper Number 40, Rainfall Frequency Atlas of the United States, May 1961, and subsequent amendments, or equivalent regional or state rainfall information developed from it.

~~(2) Active sludge unit--A sludge unit that has not closed and/or is still receiving sewage sludge.~~

~~(3) Aerobic digestion--The biochemical decomposition of organic matter in sewage sludge into carbon dioxide, water, and other by-products by microorganisms in the presence of free oxygen.~~

(4) Agricultural land--Land on which a food crop, a feed crop, or a fiber crop is grown. This includes range land and land used as pasture.

(5) Agricultural management unit--A portion of a land application area contained within an identifiable boundary, such as a river, fence, or road, where the area has a known crop or land use history.

(6) Agronomic rate--The ~~whole sludge~~ domestic septage application rate (dry weight basis) designed:

(A) to provide the amount of nitrogen needed by the crop or vegetation grown on the land; and

(B) to minimize the amount of nitrogen in the ~~sewage sludge~~ domestic septage that passes below the root zone of the crop or vegetation grown on the land to the groundwater.

~~(7) Anaerobic digestion--The biochemical decomposition of organic matter in sewage sludge into methane gas, carbon dioxide, and other by-products by microorganisms in the absence of free oxygen.~~

(8) Annual metal loading rate--The maximum amount of a pollutant (dry weight basis) that can be applied to a unit area of land during a 365-day period.

~~(9) Annual whole sludge application rate--The maximum amount of sewage sludge that can be applied to a unit area of land during a 365-day period.~~

~~(10) Applied uniformly--Sewage sludge placed on the land for beneficial use such that the agronomic rate is not exceeded anywhere in the application area.~~

(11) Apply ~~sewage sludge~~ domestic septage or ~~sewage sludge~~ domestic septage applied to the land--Land application or the spraying/spreading of ~~sewage sludge~~ domestic septage onto the land surface; the injection of ~~sewage sludge~~ domestic septage below the land surface; or the incorporation of ~~sewage sludge~~ domestic septage into the soil.

(12) Aquifer--A geologic formation, group of geologic formations, or a portion of a geologic formation capable of yielding groundwater to wells or springs.

(13) Base flood--A flood that has a 1% chance of occurring in any given year.

(14) Beneficial use--Placement of ~~sewage sludge~~ domestic septage onto land in a manner that complies with the requirements of Subchapter B of this chapter (relating to Land Application for Beneficial Use and Storage at Beneficial Use Sites), and does not exceed the agronomic need or rate for a cover crop, or any metal or toxic constituent limitations that the cover crop may have. Placement of ~~sewage sludge~~

domestic septage on the land at a rate below the optimal agronomic rate will be considered a beneficial use.

~~(15) Bulk sewage sludge--Sewage sludge that is not sold or given away in a bag or other container for application to the land.~~

(16) Certified nutrient management specialist--An organization in Texas or an individual who is currently certified as a nutrient management specialist through a United States Department of Agriculture-Natural Resources Conservation Service recognized certification program.

~~(17) Class A sewage sludge--Sewage sludge meeting the pathogen reduction requirements in §312.82(a)(1)(B) of this title (relating to Pathogen Reduction).~~

~~(18) Class AB sewage sludge--Sewage sludge meeting the pathogen reduction requirements in §312.82(a)(1)(A) of this title (relating to Pathogen Reduction).~~

~~(19) Class B sewage sludge--Sewage sludge meeting one of the pathogen reduction requirements in §312.82(b) of this title (relating to Pathogen Reduction).~~

(20) Contaminate an aquifer--To introduce a substance that causes the maximum contaminant level for nitrate in 40 Code of Federal Regulations (CFR) §141.11, as amended, to be exceeded in groundwater or that causes the existing concentration of nitrate in groundwater to increase when the existing concentration of nitrate in the groundwater already exceeds the maximum contaminate level for nitrate in 40 CFR §141.11, as amended.

(21) Cover--Soil or other material used to cover ~~sewage sludge~~ domestic septage placed on an active ~~sludge-land application unit~~.

(22) Cover crop--Grasses or small grain crop, such as oats, wheat, or barley, not grown for harvest.

(23) Cumulative metal loading rate--The maximum amount of an inorganic pollutant (dry weight basis) that may be applied to a unit area of land.

(24) Density of microorganisms--The number of microorganisms per unit mass of total solids (dry weight basis) in the ~~sewage sludge~~ domestic septage.

(25) Displacement--The relative movement of any two sides of a fault measured in any direction.

(26) Disposal--The placement of ~~sewage sludge~~ domestic septage on the land for any purpose other than beneficial use. Disposal does not include placement onto the land where the activity has been approved by the executive director or commission as storage or temporary storage and it occurs only for the period of time expressly approved.

(27) Domestic septage--Either liquid or solid material removed from a septic tank, cesspool, portable toilet, Type III marine sanitation device, or similar treatment works that receives only domestic sewage. Domestic septage does not include liquid or solid material removed from a septic tank, cesspool, or similar treatment works that receives either commercial wastewater or industrial wastewater and does not include grease removed from a grease trap.

~~(28) Domestic sewage--Waste and wastewater from humans or household operations that is discharged to a wastewater collection system or otherwise enters a treatment works.~~

~~(29) Dry weight basis--Calculated on the basis of having been dried at 105 degrees Celsius until reaching a constant mass (i.e., essentially 100% solids content).~~

(30) Experimental use--Non-routine beneficial use land application or reclamation projects where sewage sludge domestic septage is added to the soil for research purposes, in pilot projects, feasibility studies, or similar projects.

(31) Facility--Includes all contiguous land, structures, other appurtenances, and improvements on the land used for the surface disposal or land application for beneficial use of domestic septage, ~~or~~ incineration of sewage sludge.

(32) Fault--A fracture or zone of fractures in any materials along which strata, rocks, or soils on one side are displaced with respect to strata, rocks, or soil on the other side.

(33) Feed crops--Crops produced primarily for consumption by domestic livestock, such as swine, goats, cattle, or poultry.

(34) Fiber crops--Crops such as flax and cotton.

(35) Final cover--The last layer of soil or other material placed on a ~~sludge domestic septage land~~ application unit at closure.

(36) Floodway--A channel of a river or watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the surface elevation more than one foot.

(37) Food crops--Crops consumed by humans. These include, but are not limited to, fruits, vegetables, and tobacco.

(38) Forest--Land densely vegetated with trees and/or underbrush.

~~(39) Grit trap--A unit/chamber that allows for the sedimentation of solids from an influent liquid stream by reducing the flow velocity of the influent liquid stream. In a grit trap, the inlet and the outlet are both located at the same vertical level, at, or very near, the top of the unit/chamber; the outlet of the grit trap is connected to a sanitary sewer system. A grit trap is not designed to separate oil and water.~~

~~(40) Grit trap waste--Waste collected in a grit trap. Grit trap waste includes waste from grit traps placed in the drains prior to entering the sewer system at maintenance and repair shops, automobile service stations, car washes, laundries, and other similar establishments. The term does not include material collected in an oil/water separator or in any other similar waste management unit designed to collect oil.~~

(41) Groundwater--Water below the land surface in the saturated zone.

(42) Harvesting--Any act of cutting, picking, drying, baling, gathering, and/or removing vegetation from a field, or storing.

(43) Holocene time--The most recent epoch of the Quaternary period, extending from the end of the Pleistocene Epoch to the present. Holocene time began approximately 10,000 years ago.

(44) Incorporation--Mixing the applied material evenly through the top three inches of soil.

(45) Industrial wastewater--Wastewater generated in a commercial or industrial process.

(46) Institution--An established organization or corporation, especially of a public nature or where the public has access, such as child care facilities, public buildings, or health care facilities.

(47) Land application--The spraying or spreading of ~~sewage sludge-domestic septage~~ onto the land surface; the injection of ~~sewage sludge-domestic septage~~ below the land surface; or the incorporation of ~~sewage sludge-domestic septage~~ into the soil so that the ~~sewage sludge-domestic septage~~ can either condition the soil or fertilize crops or vegetation grown in the soil.

(48) Land with a high potential for public exposure--Land that the public uses frequently and/or is not provided with a means of restricting public access.

(49) Land with a low potential for public exposure--Land that the public uses infrequently and/or is provided with a means of restricting public access.

(50) Leachate collection system--A system or device installed immediately above a liner that is designed, constructed, maintained, and operated to collect and remove leachate from a ~~sludge domestic septage storage unit~~.

(51) Licensed professional geoscientist--A geoscientist who maintains a current license through the Texas Board of Professional Geoscientists in accordance with its requirements for professional practice.

(52) Liner--Soil or synthetic material that has a hydraulic conductivity of  $1 \times 10^{-7}$  centimeters per second or less. Soil liners must be of suitable material with more than 30% passing a number 200 sieve, have a liquid limit greater than 30%, a plasticity index greater than 15, compaction of greater than 95% Standard Proctor at optimum moisture content, and will be at least two feet thick placed in six-inch lifts. Synthetic liners must be a membrane with a minimum thickness of 20 mils and include an underdrain leak detection system.

~~(53) Lower explosive limit for methane gas--The lowest percentage of methane in air, by volume, that propagates a flame at 25 degrees Celsius and atmospheric pressure.~~

(54) Major sole-source impairment zone--A watershed that contains a reservoir that is used by a municipality as a sole source of drinking water supply for a population of more than 140,000, inside and outside of its municipal boundaries; and into which at least half of the water flowing is from a source that, on September 1, 2001, is on the list of impaired state waters adopted by the commission as required by 33 United States Code, §1313(d), as amended, at least in part because of concerns regarding



pathogens and phosphorus, and for which the commission at some time prepared and submitted a total maximum daily load standard.

(55) Metal limit--A numerical value that describes the amount of a metal allowed per unit amount of ~~sewage sludge~~ domestic septage (e.g., milligrams per kilogram of total solids); the amount of a pollutant that can be applied to a unit area of land (e.g., kilograms per hectare); or the volume of a material that can be applied to a unit area of land (e.g., gallons per acre).

~~(56) Monofill--A landfill or landfill trench in which sewage sludge is the only type of solid waste placed.~~

(57) Municipality--A city, town, county, district, association, or other public body (including an intermunicipal agency of two or more of the foregoing entities) created by or under state law; an Indian tribe or an authorized Indian tribal organization having jurisdiction over sewage sludge management; or a designated and approved management agency under federal Clean Water Act, §208, as amended. The definition includes a special district created under state law, such as a water district, sewer district, sanitary district, or an integrated waste management facility as defined in federal Clean Water Act, §201(e), as amended, that has as one of its principal responsibilities the treatment, transport, use, or disposal of sewage sludge.

(58) Off-site--Property that cannot be characterized as "on-site."

(59) On-site--The same or contiguous property owned, controlled, or supervised by the same person. If the property is divided by public or private right-of-way, the access must be by crossing the right-of-way or the right-of-way must be under the control of the person.

(60) Operator--The person responsible for the overall operation of a facility or beneficial use site.

(61) Other container--Either an open or closed receptacle, including, but not limited to, a bucket, box, or a vehicle or trailer with a load capacity of one metric ton (2,200 pounds) or less.

(62) Owner--The person who owns a facility or part of a facility.

(63) Pasture--Land that animals feed directly on for feed crops such as legumes, grasses, grain stubble, forbs, or stover.

(64) Pathogenic organisms--Disease-causing organisms including, but not limited to, certain bacteria, protozoa, viruses, and viable helminth ova.

~~(65) Person who prepares sewage sludge--Either the person who generates sewage sludge during the treatment of domestic sewage in a treatment works or the person who derives a material from sewage sludge.~~

(66) ~~Place sewage sludge~~ domestic septage ~~or sewage sludge~~ domestic septage placed--Disposal of ~~sewage sludge~~ domestic septage on a surface disposal site.

(67) Pollutant--An organic or inorganic substance, or a pathogenic organism that, after discharge and upon exposure, ingestion, inhalation, or assimilation into an organism either directly from the environment or indirectly by ingestion through the food chain, could, on the basis of information

available to the executive director, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunction in reproduction), or physical deformations in either organisms or offspring of the organisms.

(68) Process or processing--For the purposes of this chapter, these terms shall have the same meaning as "treat" or "treatment."

(69) Public contact site--Land with a high potential for contact by the public. This includes, but is not limited to, public parks, ball fields, cemeteries, plant nurseries, turf farms, and/or golf courses.

(70) Range land--Open land with indigenous vegetation.

(71) Reclamation

site--Drastically disturbed land that is reclaimed using ~~sewage sludge~~ domestic septage. This includes, but is not limited to, strip mines and/or construction sites.

(72) Runoff--Rainwater, leachate, or other liquid that drains overland on any part of a land surface and runs off of the land surface.

(73) Seismic impact zone--An area that has a 10% or greater probability that the horizontal ground level acceleration of the rock in the area exceeds 0.10 gravity once in 250 years.

~~(74) Sewage sludge--Solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in treatment works. Sewage sludge includes, but is not limited to, domestic septage, scum, or solids removed in primary, secondary, or advanced wastewater treatment processes; and material derived from sewage sludge. Sewage sludge does not include ash or grit and screenings generated during preliminary treatment of domestic sewage in a treatment works.~~

~~(75) Sewage sludgeDomestic septage debris--Solid material such as rubber, plastic, glass, or other trash that may pass through a wastewater treatment process or sludge process or may be collected with septage. This solid material is visibly distinguishable from sewage sludge domestic septage. This material does not include grit or screenings removed during the preliminary treatment of domestic sewage at a treatment works, nor does it include grit trap waste.~~

~~(76) Sludge lagoon--An existing surface impoundment located on site at a wastewater treatment plant for the storage of sewage sludge. Any other type impoundment must be considered an active sludge unit, as defined in this section.~~

~~(77) SludgeDomestic septage land application unit--Land that only sewage sludge domestic septage is placed for disposal. A sludge unit must be used for sewage sludge. This does not include land that sewage sludge domestic sludge is either stored or treated.~~

~~(78) SludgeDomestic septage land application unit boundary--The outermost perimeter of a surface disposal site.~~

(79) Sole-source surface drinking water supply--A body of surface water that is identified as a public water supply in §307.10 of this title (relating to Appendices A - G) and is the sole source of supply of a public water supply system, exclusive of emergency water connections.

(80) Source-separated organic material--As defined in §332.2 of this title (relating to Definitions).

~~(81) Specific oxygen uptake rate--The mass of oxygen consumed per unit time per unit mass of total solids (dry weight basis) in the sewage sludge.~~

(82) Staging--Temporary holding of ~~sewage sludge~~ domestic septage at a beneficial use site, for up to a maximum of seven calendar days per each staging location, prior to the land application of the ~~sewage sludge~~ domestic septage.

(83) Store or storage--The placement of ~~sewage sludge~~ domestic septage on land for longer than seven days.

(84) Temporary storage--Storage of waste regulated under this chapter by a transporter, which has been approved in writing by the executive director, in accordance with §312.147 of this title (relating to Temporary Storage).

(85) Three hundred-sixty-five day period--A running total that covers the period between ~~sludge~~ domestic septage application to a site and the nutrient uptake of the cover crop.

~~(86) Total solids--The materials in sewage sludge that remain as residue if the sewage sludge is dried at 103 degrees Celsius to 105 degrees Celsius.~~

(87) Transporter--Any person who collects, conveys, or transports ~~sewage sludge, water treatment plant sludges, grit trap waste, grease trap waste,~~ domestic septage chemical toilet waste, and/or ~~sewage sludge~~ domestic septage by roadway, ship, rail, or other means.

(88) Treat or treatment of ~~sewage sludge~~ domestic septage--The preparation of ~~sewage sludge~~ domestic septage for final use or disposal. This includes, but is not limited to, ~~thickening, stabilization, and dewatering of sewage sludge~~ addition of lime in a tank truck. This does not include storage of ~~sewage sludge~~ domestic septage.

~~(89) Treatment works--Either a federally owned, publicly owned, or privately owned device or system used to treat (including recycle and reclaim) either domestic sewage or a combination of domestic sewage and industrial waste of a liquid nature.~~

~~(90) Unstabilized solids--Organic materials in sewage sludge that have not been treated in either an aerobic or anaerobic treatment process.~~

(91) Unstable area--Land subject to natural or human induced forces that may damage the structural components of an active ~~sewage sludge~~ domestic septage land application unit. This includes, but is not limited to, land that the soils are subject to mass movement.

(92) Vector attraction--The characteristic of ~~sewage sludge~~ domestic septage that attracts rodents, flies, mosquitoes, or other organisms capable of transporting infectious agents.

~~-(93) Volatile solids--The amount of the total solids in sewage sludge lost when the sewage sludge is combusted at 550 degrees Celsius in the presence of excess oxygen.~~

~~-(94) Water treatment sludge--Sludge generated during the treatment of either surface water or groundwater for potable use, which is not an industrial solid waste as defined in §325.1 of this title (relating to Definitions).~~

(95) Wetlands--Those areas that are inundated or saturated by surface water or groundwater at a frequency and duration to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

### **312.9 Sludge-Domestic Septage Fee Program**

(a) The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise.

(1) Annual fee--A fee charged to each person holding a registration or permit under the commission's authority in Texas Health and Safety Code, Chapter 361, or a permit issued under the commission's authority in Texas Water Code, Chapter 26, except that a fee will not be assessed under this chapter as specified in §312.5 of this title (relating to Relationship to Other Requirements).

(2) Reported--Information compiled and submitted to the commission that tracks the amount of waste being stored, treated, processed, transported, or disposed of in the state; tracks the amount of processing, transporting, and disposal capacity and reserve capacity; and enables equitable assessment and collection of fees.

(3) Payment--Receipt by the commission of the full amount of the annual fee(s) due.

(b) Except as provided in subsection (f) of this section, the amount of the annual fee that is assessed is determined by weight of solids disposed of and reported to the commission as of September 30, of each year. Failure to report the disposal of ~~sewage sludge or water treatment sludge~~ domestic septage does not exempt a registrant or permittee from this fee. The fees are as follows.

(1) The minimum fee assessed against each registration or permit is \$100, regardless of whether the site is active or inactive.

~~-(2) When water treatment sludge is mixed with a Class B sewage sludge or when sewage sludge that is classified as Class B is applied to the land for beneficial use as described in Subchapter B of this chapter (relating to Land Application for Beneficial Use and Storage at Beneficial Use Sites) the fee is \$0.75 per dry ton.~~

~~-(3) When sewage sludge or water treatment sludge is applied to a site for disposal and the disposal was authorized by the commission or predecessor agency prior to October 1, 1995, the fee is \$1.25 per dry ton.~~

~~-(4) When sewage sludge is applied to a site for disposal or when water treatment sludge is applied to a site for disposal and the activity requires a permit as specified in Subchapter F of this chapter (relating to Disposal of Water Treatment Sludge), and the disposal is authorized by the commission or predecessor agency on October 1, 1995, or thereafter, the fee is \$1.25 per ton.~~

~~-(5) When water treatment sludge is applied to a site for disposal and the activity does not require a permit as specified in Subchapter F of this chapter, the fee is \$0.20 per dry ton.~~

~~-(6) When sewage sludge is fired in a sewage sludge incinerator as described in Subchapter E of this chapter (relating to Guidelines and Standards for Sludge Incineration), the fee is \$1.25 per dry ton.~~

(c) An annual transporter fee is assessed against each person or entity holding a registration to transport ~~sewage sludge, water treatment sludge, domestic septage or~~ chemical toilet waste, grease trap waste,

~~or grit trap waste~~ issued in accordance with Subchapter G of this chapter (relating to Transporters and Temporary Storage Provisions). The amount of the annual fee must be based upon the total annual volume of waste transported by the transporter under each registration and reported to the commission as of June 15, each year. Failure to report the transportation of waste does not exempt a registrant from this fee. The fees are as follows.

- (1) For a total annual volume transported of 10,000 gallons (50 cubic yards) or less, the fee is \$100.
- (2) For a total annual volume transported greater than 10,000 gallons (50 cubic yards) but equal to or less than 50,000 (250 cubic yards), the fee is \$250.
- (3) For a total annual volume transported greater than 50,000 gallons (250 cubic yards) but equal to or less than 200,000 gallons (1,000 cubic yards), the fee is \$400.
- (4) For a total annual volume transported of greater than 200,000 gallons (1,000 cubic yards), the fee is \$500.

(d) ~~Sludge-Domestic septage~~ permit and registration holders shall submit the annual reports in accordance with §312.48(1) of this title (relating to Reporting) no later than September 30 of each calendar year, for a reporting period covering September 1 of the previous calendar year to August 31 of the current calendar year. Fees assessed in subsection (b) of this section must be paid by the registrant or permittee on or before the due date specified in the invoice each year. Fees assessed in subsection (c) of this section must be paid by the registrant after billing by the executive director, prior to September 1, of each year. Fees must be paid by check, certified check, or money order payable to the Texas Commission on Environmental Quality. The permittee or registrant of a facility failing to make payment of the fees imposed under this subchapter when due shall be assessed penalties and interest in accordance with Chapter 12 of this title (relating to Payment of Fees).

(e) Failure of the registrant or permittee to submit the required fee within 30 days of billing, shall be sufficient cause for the commission to revoke the registration or permit and authorization to process or dispose of waste. Any entity to whom a registration or permit is transferred shall be liable for payment of the annual fee on the same basis as the transferor.

~~(f) No fee will be assessed for sewage sludge or water treatment sludge composted with source-separated organic material at a composting facility, including a composting facility located at a permitted landfill site. This subsection does not apply if the sludge is not used as compost and is deposited in a surface disposal site or landfill.~~

~~(g) Sludge permit holders shall submit permit application fees for Class B sewage sludge.~~

~~(1) Any person who applies for a new permit, permit renewal, or permit amendment shall pay a permit application fee. The fees in this subsection relating to application for a permit, permit renewal, or major amendment supercede the fees in §305.53 of this title (relating to Application Fee). An application for a minor amendment or permit transfer must be submitted in accordance with §305.53 of this title. The commission may not consider an application for final decision until such time as the permit application fee is paid. All permit application fees must be made payable to the commission and paid at the time the application for a permit is submitted.~~

~~(2) The executive director may not process an application until all delinquent annual fees and delinquent administrative penalties owed the commission by the applicant or for the site as delineated in the permit application are paid in full. Any permittee to whom a permit is transferred shall be liable for payment of the annual fees assessed for the permitted entity/site on the same basis as the transferor of the permit, as well as any outstanding fees and associated penalties owed the commission. If the applicant is not the permittee at the time fees become delinquent or against whom administrative penalties are assessed, the executive director may for good cause waive the applicant's liability under this subsection for payment of delinquent annual fees or delinquent administrative penalties.~~

~~(3) An applicant may file a written request for a refund in the amount of 50% of the permit application fee paid if the permit is not issued. No fees will be refunded after a new permit, permit renewal, permit~~

modification, permit amendment, or permit transfer has been issued by the commission. Transfer of a permit will not entitle the transferor permittee to a refund, in whole or part, of any fee already paid by that permittee.

~~(4) The permit application fees will be between \$1,000 and \$5,000, based on the quantity of sewage sludge to be applied annually under the permit, as shown in the following schedule:~~

~~(A) \$1,000, if the quantity is 2,000 dry tons or less;~~

~~(B) \$2,000, if the quantity is greater than 2,000 dry tons but less than or equal to 5,000 dry tons;~~

~~(C) \$3,000, if the quantity is greater than 5,000 dry tons but less than or equal to 10,000 dry tons;~~

~~(D) \$4,000, if the quantity is greater than 10,000 dry tons but less than or equal to 20,000 dry tons; or~~

~~(E) \$5,000, if the quantity is greater than 20,000 dry tons.~~

### **312.10 Permit and Registration Applications Processing**

(a) Applications for permits, registrations, or other types of approvals required by this subchapter shall be reviewed by staff for administrative completeness within 14 calendar days of receipt of the application by the executive director.

(b) Permit and registration applications must include all information required by §312.11 of this title (relating to Permits), §312.12 of this title (relating to Registrations), or §312.142 of this title (relating to Transporter Registration).

(c) Upon receipt of an application for a permit or registration, excluding transportation registrations, the executive director shall assign the application a number for identification purposes, and prepare a Notice of Receipt of Application and Declaration of Administrative Completeness for domestic septage registrations or Notice of Receipt of Application and Intent to Obtain Permit for permits where applicable, which is suitable for publishing or mailing, and forward that notice to the Office of the Chief Clerk. The Office of the Chief Clerk shall notify every person entitled to notification of a particular application as described in §312.13 of this title (relating to Actions and Notice).

(d) The Notice of Receipt of Application and Declaration of Administrative Completeness for domestic septage registrations or Notice of Receipt of Application and Intent to Obtain Permit for permit where applicable, must contain the information required by Chapter 39 of this title (relating to Public Notice), Texas Water Code, §5.552(c), and the approximate anticipated date of the first land application of ~~sludge-domestic septage~~ to the proposed land application unit.

(e) Nothing in this section shall be construed so as to waive the notice and processing requirements concerning the application and the draft permit in accordance with Chapter 39, Subchapters H and J of this title (relating to Applicability and General Provisions and Public Notice of Water Quality Applications and Water Quality Management Plans), Chapter 50, Subchapters E - G of this title (relating to Purpose, Applicability, and Definitions; Action by the Commission; and Action by the Executive Director), Chapter 55, Subchapters D - F of this title (relating to Applicability and Definitions; Public Comment and Public Meetings; and Requests for Reconsideration or Contested Case Hearing), or Chapter 305, Subchapters C, D, and F of this title (relating to Application for Permit or Post-Closure Order; Amendments, Renewals, Transfers, Corrections, Revocation, and Suspension of Permits; and Permit Characteristics and Conditions) for applications for ~~sewage sludge-domestic septage~~ land application, processing, disposal, ~~or storage, or incineration permits.~~

(f) All permit applications for ~~sewage sludge land application, processing, disposal, storage, or incineration~~ are subject to the application processing procedures and requirements in ~~§§281.18 - 281.24~~



of this title (relating to Applications Returned; Technical Review; Extension; Draft Permit; Technical Summary; Fact Sheet; and Compliance History; Referral to Commission; Application Amendment; and Effect of Rules).

(g) All registration applications for ~~Class A sewage sludge, Class AB sewage sludge, water treatment plant sludge, and domestic septage~~ are subject to the application processing procedures and requirements in §§281.18 - 281.20 of this title.

(h) A registration or permit will be cancelled upon receipt of a written request for cancellation from either the site operator or landowner. The executive director will provide notice to the other party that cancellation has been requested and that cancellation will occur ten days from the issuance of notice. This notice is provided merely as a courtesy by the commission and is not mandatory for cancellation.

(i) To transfer a registration or permit, both the site operator and the landowner must sign the transfer application. An application for transfer that is not signed by both the site operator and the landowner will be considered a request for cancellation.

(j) If a registration or permit for a site is cancelled, a complete application for registration or permit must be submitted in order to reauthorize the site. If the application is approved, the site will be authorized under the same site registration or permit number.

(k) For permits, a major amendment is defined in Chapter 305, Subchapter D of this title. For purposes of this chapter concerning registrations and except as provided in subsection (l) of this section, a major amendment for a registration is an amendment that changes a substantive term, provision, requirement, or a limiting parameter of a registration or a substantive change in the information provided in an application for registration. Changes to registrations that are not considered major include, but are not limited to, typographical errors, changes that result in more stringent monitoring requirements, changes in site ownership, changes in site operator, or similar administrative information.

(l) Upon the effective date of this chapter, the executive director will process as a minor amendment a request by an existing permittee or registrant to change any substantive term, provision, requirement, or a limiting parameter in a permit or registration that implemented prior regulations of the commission, when it is no longer a requirement of this chapter. Notice requirements of §312.13 of this title are not applicable to a minor amendment for a registration.

(m) Term limits for registrations or permits may not exceed five years.

**312.11 Permits – ~~entire subsection be~~ it just pertains to biosolids (not domestic septage)**

#### **312.12 Registrations**

(a) ~~After August 31, 2003, all registrations for the beneficial use of Class B sewage sludge will be void. Registrations for the beneficial use of Class A sewage sludge, water treatment plant sludge, and/or domestic septage will remain valid until they expire, are renewed, are cancelled, or are revoked.~~

(b) Except as provided in §312.4(b) of this title (relating to Required Authorizations or Notifications), an applicant for a registration to land apply ~~Class A sewage sludge, Class AB sewage sludge, water treatment sludge, and/or domestic septage~~ shall:

(1) submit to the executive director an original, completed application form approved by the executive director, along with the appropriate number of copies of the registration application. Each applicant shall submit to the executive director such information as may reasonably be required to enable the executive director to determine whether such land application for beneficial use activities are compliant with the terms of this chapter. Such information may include, but is not limited to, the following:

(A) a description and composition of the material to be land applied;

(B) a description of all processes generating the material to be land applied at the site;

(C) information about the site and the planned management of the material to be land applied, including the name, address, and telephone number of any landowner or operator at the site and the following information:

(i) whether such material is managed on site and/or off site from its point of generation;

(ii) a description of each on-site land application beneficial use unit or tract, including the name, address, and telephone number of all landowners, or the same information from a landowner acting as a spokesperson(s) for all the landowners, so long as the spokesperson submits to the executive director a sworn statement allowing the spokesperson to act for other persons;

(iii) a listing of the types of material to be land applied managed in each unit or tract;

(iv) a detailed description of the beneficial use occurring at each unit or tract of land where application of Class A or Class AB sewage sludge, water treatment sludge, and/or domestic septage is proposed, including proposed waste management and crop production methods; and

(v) information regarding soil characteristics and subsurface conditions where the land application site will be located;

(D) the verified legal status of the applicant(s), as applicable;

(E) the notarized signature of each applicant, in accordance with §305.44 of this title (relating to Signatories to Applications);

(F) a notarized affidavit from the applicant(s) verifying land ownership or landowner agreement to the proposed activity;

(G) technical reports and supporting data required by the application;

(H) for applications for major amendments or new registrations, information concerning surrounding landowners, including the following, as applicable:

(i) a map depicting the approximate boundaries of the tract of land owned or under the control of the applicant and each residential or business address and owner of all the tracts of land bordering the perimeter of any portion of the site;

(ii) a list on or attached to the map of the names and addresses of the owners of such tracts of land as can be determined from the current county tax rolls at the time the application is filed, and other reliable sources. The list of property owners must be provided in both hard copy and either in electronic format or on four sets of self-adhesive mailing labels; and

(iii) the source of the information;

(I) analytical results establishing the background soil concentration of metals regulated by this chapter in the application area(s), as applicable, based on the following:

(i) samples taken from the zero to six-inch zone of soil to be affected by the addition of ~~sewage sludge (including domestic septage)~~;

(ii) soil samples that accurately show soil conditions in the application area(s) and that are taken at a spatial distribution of at least one composite sample per every 80 acres or less of soil type or area being sampled;

(iii) composite samples comprised of ten to 15 samples taken from points randomly distributed across the entire soil type or area(s) being sampled;

(iv) a separate composite sample taken from each United States Department of Agriculture (USDA) Natural Resource Conservation Service (NRCS) soil type (soils with the same characterization or texture), unless an alternate method is used;

(v) when using an alternate method for defining areas to be sampled such as sampling by agricultural management units or other defined areas, a sampling plan also included in the application, which sufficiently establishes background soil conditions through proportionate sampling of each USDA NRCS soil type in each area sampled;

(J) analytical results establishing the background soil concentration of nutrients, salinity, and pH in the application area(s), as applicable, based on the following:

(i) separate samples taken from the zero to six-inch and from the six to 24-inch zones of soil to be affected by the addition of ~~sewage sludge (including domestic septage)~~;

(ii) soil samples that accurately show soil conditions in the application area(s) and that are taken at a spatial distribution of at least one composite sample per every 80 acres or less of soil type or area being sampled;

(iii) composite samples comprised of ten to 15 samples taken from points randomly distributed across the entire soil type or area(s) being sampled;

(iv) a separate composite sample taken from each USDA NRCS soil type (soils with the same characterization or texture), unless an alternate method is used;

(v) when using an alternate method for defining areas to be sampled such as sampling by agricultural management units or other defined areas, a sampling plan also included in the application, which

sufficiently establishes background soil conditions through proportionate sampling of each USDA NRCS soil type in each area sampled;

(K) any information provided under this paragraph submitted to the executive director in quadruplicate form;

(2) immediately provide written notice to the executive director of any changes, requests for an amendment, modification, or renewal of a registration, or any additional information concerning changes in land ownership, changes in site control, or operator, changes in waste composition, changes in the source of ~~sewage sludge~~ domestic septage, or waste management methods, and information regarding soils and subsurface conditions where the operation is to be located. Any information provided under this paragraph must be submitted to the executive director in duplicate form.

(c) The executive director shall determine, after review of any application, whether to approve or deny an application in whole or in part, deny with prejudice, suspend the authority to conduct an activity for a specified period of time, or amend or modify the proposed activity requested by the applicant. The determination of the executive director shall include review and action on any new applications or changes, renewals, and requests for major amendment of any existing application. In consideration of such an application, the executive director shall consider all relevant requirements of this chapter and consider all information pertaining to those requirements received by the executive director regarding the application. The written determination on any application, including any authorization granted, shall be mailed to the applicant upon the decision of the executive director.

(d) At the same time that the executive director's decision is mailed to the applicant, notice of this decision must also be mailed to all parties who submitted written information on the application, as described in §312.13(c)(2) and (3) of this title (relating to Actions and Notice).

(e) For registered land application sites located in a major sole-source impairment zone, the registrant must comply with the provisions listed in §312.11(k) of this title (relating to Permits).

### **312.13 Actions and Notice**

(a) Applicability. This section sets forth the manner in which action will be taken on applications filed with the executive director for either a permit or a registration to land apply, store, process, or dispose of, ~~or incinerate sewage sludge~~ domestic septage.

(b) Permit actions:

~~(1) All permit applications are subject to the standards and requirements as set forth in Chapter 39, Subchapters H—J of this title (relating to Applicability and General Provisions; Public Notice of Solid Waste Applications; and Public Notice of Water Quality Applications and Water Quality Management Plans), Chapter 50, Subchapters E—G of this title (relating to Purpose, Applicability, and Definitions; Action by the Commission; and Action by the Executive Director), and Chapter 55, Subchapters D—F of this title (relating to Applicability and Definitions; Public Comment and Public Meetings; and Requests for Reconsideration or Contested Case Hearing).~~

~~(2) For disposal and incineration permit applications, notice must be provided to all owners of properties within 1/2 mile of the border of any portion of the tract of land where the permitted activities would occur. For beneficial use (excluding Class B sewage sludge), processing, and storage~~

permit applications, notice must be provided to all owners of properties adjacent to any portion of the tract of land where the permitted activities will occur. The tract of land includes all contiguous properties under the ownership or control of the applicant.

~~(3) For Class B sewage sludge beneficial land use permit applications:~~

~~—(A) notice must be provided under Chapter 39 of this title (relating to Public Notice) and under Texas Water Code, §5.552. The notice must also contain the anticipated date of the first land application of sludge to the proposed land application unit. An applicant for a new permit, permit amendment, or permit renewal under Texas Health and Safety Code, §361.121(c), shall notify by registered or certified mail each owner of land located within 1/4 mile of the proposed land application unit who lives on that land; and~~

~~—(B) an owner of the land located within 1/4 mile of the proposed land application unit who lives on the land is considered an "affected person" for purposes of Texas Water Code, §5.115, and Chapter 55 of this title (relating to Requests for Reconsideration and Contested Case Hearings; Public Comment). Individuals who do not own land within 1/4 mile of the proposed land application site are not excluded from being considered "affected persons" under 555.203 of this title (relating to Determination of Affected Person).~~

(c) Registration actions.

(1) The public notice requirements of this subsection apply to new applications for a registration, and to applications for major amendment of a registration. ~~The requirements of this subsection do not apply to sites where only Class A or Class AB sewage sludge that has been authorized for marketing and distribution is to be land applied for beneficial use or registrations for water treatment sludge.~~

(2) The Office of the Chief Clerk shall mail the Notice of Receipt of Application and Declaration of Administrative Completeness along with a copy of the registration application to the county judge in the county where the proposed site is to be located.

(3) The Office of the Chief Clerk shall mail the Notice of Receipt of Application and Declaration of Administrative Completeness to the landowners named on the application map or supplemental map, or the sheet attached to the application map or supplemental map.

(4) Each notice must specify both the name, affiliation, address, and telephone number of the applicant and of the commission employee who may be reached to obtain more information about the application to register the site. The notice must specify that the registration application has been provided to the county judge and that it is available for review by interested parties.

(5) Any application for a registration is subject to the standards and requirements for actions concerning amendments, modifications, transfers, and renewals of registrations, as set forth in Chapter 50, Subchapter G of this title.

(d) Public comment on registrations. A person may provide the commission with written comments on any new or major amendment applications to register a site, where applicable. The executive director shall review any written comments when they are received within 30 days of mailing the notice. The

written information received will be utilized by the executive director in determining what action to take on the application for registration in accordance with §312.12(c) of this title (relating to Registrations).

(e) Motion to overturn. The applicant, public interest counsel, or other person may file with the chief clerk a motion to overturn under §50.139 of this title (relating to Motion to Overturn Executive Director's Decision) to overturn the executive director's final approval or denial of an application.

## **SUBCHAPTER B: LANDAPPLICATION FOR BENEFICIAL USE AND STORAGE AT BENEFICIAL USE SITES**

### **312.41 Applicability**

(a) Application to land. This subchapter applies to any person who prepares ~~sewage sludge-domestic septage~~ that is applied to the land, to any person who applies ~~sewage sludge-domestic septage~~ to the land, to ~~sewage sludge-domestic septage~~ applied to the land, and to the land on which ~~sewage sludge-domestic septage~~ is applied.

~~(b) Bulk sewage sludge.~~

~~(1) When bulk sewage sludge is applied to the land and meets the metal concentrations in Table 3 of §312.43(b)(3) of this title (relating to Metal Limits), the Class A sewage sludge pathogen requirements in §312.82(a)(3) of this title (relating to Pathogen Reduction), and one of the vector attraction reduction requirements in §312.83(b)(1) – (8) of this title (relating to Vector Attraction Reduction), then the provisions of §312.42 of this title (relating to General Requirements) and §312.44 of this title (relating to Management Practices) do not apply with the exception of §312.44(a), (b), (h)(3), (j), and (m) of this title.~~

~~—(A) When bulk sewage sludge that meets the metal concentrations in Table 3 of §312.43(b)(3) of this title, the Class AB pathogen requirements in §312.82(a)(2) of this title, and one of the vector attraction reduction requirements in §312.83(b)(1) – (8) of this title, is applied to the land, then §312.44(a), (b), (c)(2)(D) and (E), (d), (h)(1), (3), (5) and (6), (j), (l), and (m) of this title will apply to the land application of sewage sludge.~~

~~—(B) When bulk sewage sludge that meets the metal concentrations in Table 3 of §312.43(b)(3) of this title, the Class AB pathogen requirements in §312.82(a)(2) of this title, and one of the vector attraction reduction requirements in §312.83(b)(1) – (8) in addition to (9) or (10) of this title, then the requirements in subparagraph (A) of this paragraph do not apply with the exception of §312.44(a), (b), (h)(3), (j), and (m) of this title.~~

~~(2) The executive director may apply any or all of §312.42 and §312.44 of this title to the bulk sewage sludge described in this subsection on a case-by-case basis after determining that the general requirements or management practices are needed to protect public health and the environment from any reasonably anticipated adverse effect that may occur from any metal in the bulk sewage sludge.~~

~~(c) General Requirements for Bulk Derived Materials.~~

~~(1) When derived material from sewage sludge is applied to the land and meets the metal concentrations in Table 3 of §312.43(b)(3) of this title, the Class A pathogen requirements in §312.82(a)(3) of this title, and one of the vector attraction reduction requirements in §312.83(b)(1) – (8) of this title, then the provisions of §312.42 and §312.44 of this title do not apply with the exception of §312.44(a), (b), (h)(3), (j), and (m) of this title.~~

~~—(A) When bulk sewage sludge that meets the metal concentrations in Table 3 of §312.43(b)(3) of this title, the Class AB pathogen requirements in §312.82(a)(2) of this title, and one of the vector attraction reduction requirements in §312.83(b)(1) – (8) of this title is applied to the land, then §312.44(a), (b), (c)(2)(D) and (E), (d), (h)(1), (3), (5), and (6), (j), (l), and (m) of this title will apply to the land application of sewage sludge.~~



~~—(B) When bulk sewage sludge that meets the metal concentrations in Table 3 of §312.43(b)(3) of this title, the Class AB pathogen requirements in §312.82(a)(2) of this title, and one of the vector attraction reduction requirements in §312.83(b)(1) – (8) in addition to (9) or (10) of this title, is applied to the land, then the requirements in subsection (b)(1)(A) of this section do not apply with the exception of §312.44(a), (b), (h)(3), (j), and (m) of this title.~~

~~—(2) The executive director may apply any or all of §312.42 and §312.44 of this title to the bulk material described in this subsection on a case-by-case basis after determining that the general requirements or management practices are needed to protect public health and the environment from any reasonably anticipated adverse effect that may occur from any metal in the bulk sewage sludge.~~

~~(d) Special Requirements for Certain Bulk Derived Materials. The requirements in this subchapter may not apply when a bulk material derived from sewage sludge is applied to the land; if the sewage sludge from which the bulk material is derived meets the metal concentrations in Table 3 of §312.43(b)(3) of this title the Class A or Class AB pathogen requirements in §312.82(a) of this title, and one of the vector attraction reduction requirements in §312.83(b)(1) – (8) of this title. The executive director may apply any or all of §312.42 and §312.44 of this title to the bulk derived material on a case-by-case basis after determining that the general requirements or management practices are needed to protect public health and the environment from any reasonably anticipated adverse effect that may occur from any metal in the sewage sludge.~~

~~(e) Bagged sludge. Sewage sludge sold or given away in a bag or other container for application to the land. Section 312.42 and §312.44 of this title may not apply when sewage sludge is sold or given away in a bag or other container for application to the land if the sewage sludge sold or given away in a bag or other container for application to the land meets the metal concentrations in Table 3 of §312.43(b)(3) of this title, the Class A or Class AB pathogen requirements in §312.82(a) of this title, and one of the vector attraction reduction requirements in §312.83(b)(1) – (8) of this title.~~

~~(f) Bagged derived materials. Section 312.42 and §312.44 of this title may not apply when a material derived from sewage sludge is sold or given away in a bag or other container for application to the land if the derived material meets the metal concentrations in §312.43(b) of this title, the Class A or Class AB pathogen requirements in §312.82(a) of this title, and one of the vector attraction reduction requirements in §312.83(b)(1) – (8) of this title.~~

~~(g) Bagged materials. The requirements in this subchapter may not apply when a material derived from sewage sludge is sold or given away in a bag or other container for application to the land if the sewage sludge from which the material is derived meets the metal concentrations in Table 3 of §312.43(b)(3) of this title, the Class A or Class AB pathogen requirements in §312.82(a) of this title, and one of the vector attraction reduction requirements in §312.83(b)(1) – (8) of this title.~~

### **312.42 General Requirements**

(a) No person shall apply ~~sewage sludge, including domestic septage,~~ to the land except in accordance with the requirements in this subchapter.

(b) No person shall apply \_\_\_\_\_ that does not meet the metal concentrations in Table 3 of §312.43(b)(3) of this title (relating to Metal Limits) to land where any of the cumulative metal loading rates in Table 2 of §312.43(b)(2) of this title have been reached.

(c) No person shall apply domestic septage to agricultural land, forest, or a reclamation site during a 365-day period where the annual application rate in §312.43(c) of this title has been reached.

(d) The person who applies sewage sludge, including domestic septage, to the land shall obtain information needed to comply with the requirements in this subchapter.

~~(e) If a treatment works provides bulk sewage sludge to a person who applies the bulk sewage sludge to the land, the treatment works shall provide the person who applies the bulk sewage sludge to the land notice and necessary information to comply with the requirements in this subchapter.~~

~~(f) If a treatment works provides bulk sewage sludge to a person who prepares the bulk sewage sludge for application to the land, the treatment works shall provide the person who prepares the bulk sewage sludge for application to the land notice and necessary information to comply with the requirements in this subchapter.~~

~~(g) The person who applies bulk sewage sludge to the land shall provide the owner or lease holder of the land on which the bulk sewage sludge is applied notice and necessary information to comply with the requirements in this subchapter.~~

~~(h) If a treatment works provides sewage sludge to a person who prepares the sewage sludge for sale or give away in a bag or other container for application to the land, the treatment works shall provide the person who prepares the sewage sludge for sale or give away in a bag or other container for application to the land notice and information to comply with the requirements in this subchapter.~~

(i) The applicant shall determine the concentration of regulated metals in accordance with §312.12(b)(1)(I) of this title (relating to Registrations) and demonstrate to the satisfaction of the commission that the proposed cumulative metal loading will result in a non-toxic condition or reduce the toxicity of the existing soil.

### **312.43 Metal Limits**

~~(a) Sewage sludge.~~

~~—(1) Bulk sewage sludge or sewage sludge sold or given away in a bag or other container shall not be applied to the land if the concentration of any metal in the sewage sludge exceeds the ceiling concentration for the metal in Table 1 of subsection (b) of this section.~~

~~—(2) If the bulk sewage sludge is applied to agricultural land, forest, a public contact site, or a reclamation site, either:~~

~~—(A) the cumulative loading rate for each metal shall not exceed the cumulative metal loading rate for the metal in Table 2 of subsection (b) of this section; or~~

~~—(B) the concentration of each metal in the sewage sludge shall not exceed the concentration for the metal in Table 3 of subsection (b) of this section.~~

~~—(3) If bulk sewage sludge is applied to a lawn or a home garden, the concentration of each metal in the sewage sludge shall not exceed the concentration for the metal in Table 3 of subsection (b) of this section.~~

~~—(4) If sewage sludge is sold or given away in a bag or other container for application to the land, either:~~

~~—(A) the concentration of each metal in the sewage sludge shall not exceed the concentration for the metal in Table 3 in subsection (b) of this section; or~~

~~—(B) the product of the concentration of the each pollutant in the sewage sludge and the annual sludge application rate for the sewage sludge shall not cause the annual metal loading rate for the metal in Table 4 of subsection (b) of this section to be exceeded. The procedure used to determine the annual whole sludge application rate is presented in §312.49 of this title (relating to Appendix A Procedure to Determine the Annual Whole Sludge Application Rate for a Sewage Sludge).~~

~~(b) Metal concentrations and loading rates—sewage sludge.~~

~~(1) Ceiling concentrations.~~

~~Attached Graphic~~

~~(2) Cumulative metal loading rates.~~

~~Attached Graphic~~

~~(3) Metal concentrations.~~

~~Attached Graphic~~

~~(4) Annual Metal loading rates.~~

~~Attached Graphic~~

(c) Domestic Septage. The annual application rate for domestic septage applied to agricultural land, forest, or a reclamation site shall be equal to or less than the annual application rate calculated using equation 1.  $AAR = N / 0.0026$ , where AAR = Annual application rate in gallons per acre per 365-day period; N = Amount of nitrogen in pounds per acre per 365-day period needed by the crop or vegetation grown on the land.

#### 312.44 Management Practices

(a) Land application of ~~bulk sewage sludge~~ domestic septage must not cause or contribute to the harm of a threatened or endangered species of plant, fish, or wildlife or result in the destruction or adverse modification of the critical habitat of a threatened or endangered species.

(b) ~~Domestic septage~~ Bulk sewage sludge must not be applied to agricultural land, forest, a public contact site, or a reclamation site that is flooded, frozen, or snow-covered so that the ~~domestic septage~~ bulk sewage sludge enters a wetland or other water in the state, except as provided in a permit issued under Chapter 305 of this title (relating to Consolidated Permits) or federal Clean Water Act, §404.

(c) When ~~bulk sewage sludge that does not meet Class A pathogen requirements~~ or domestic septage is applied to agricultural land, forest, or a reclamation site, buffer zones must be established for each application area as noted in this section unless otherwise specified by the commission.

(1) Surface water:

(A) 200-foot buffer zone, if the sludge is not incorporated; for land application sites located in a major sole-source impairment zone this buffer zone must maintain a vegetative cover; or

(B) 33-foot vegetative buffer zone, if the sludge is incorporated.

(2) Other buffer zones:

(A) 150 feet, private water supply well;

(B) 500 feet, public water supply well, intake, spring or similar source, public water supply treatment plant, or public water supply elevated or ground storage tank;

(C) 200 feet, solution channel, sinkhole, or other conduit to groundwater;

(D) 750 feet, established school, institution, business, or occupied residential structure;

(E) 50 feet, public right-of-way and property boundaries; and

(F) 10 feet, irrigation conveyance canal.

(d) Any of the buffers established in subsection (c)(2)(D) and (E) of this section may be reduced or eliminated if an agreement to that effect is signed by the owners of the established school, institution, business, occupied residential structure, or adjacent property and this documentation is provided to the executive director prior to issuance of a permit or registration. Reductions or elimination of buffer zones in an existing permit or registration by agreement of the affected landowner will be considered a minor amendment of the permit or registration.

(e) ~~Domestic septage~~ Bulk sewage sludge must be applied to agricultural land, forest, or a public contact site at a whole ~~domestic septage~~ sludge application rate that is equal to or less than the agronomic rate for the agricultural land, forest, or public contact site on which the ~~domestic septage~~ bulk sewage sludge is applied.

(f) ~~Domestic septage~~ Bulk sewage sludge must be applied to a reclamation site at a whole application rate that is equal to or less than the agronomic rate for the reclamation site on which the ~~domestic septage~~ bulk sewage sludge is applied, unless otherwise specified by the commission. On a case-by-case basis, a whole sludge application rate may exceed the agronomic rate for a specific time period.

(g) Groundwater protection measures.

(1) A seasonal high groundwater table must be not less than three feet below the treatment zone for soils with moderate or slower permeability (less than two inches per hour).

(2) A seasonal high groundwater table must be not less than four feet below the treatment zone for soils with moderately rapid or rapid permeability (greater than two inches per hour and less than 20 inches per hour).

(3) Seasonal generally refers to a groundwater table that may be perched on a less permeable soil or geologic unit and fluctuates with seasonal climatic variation or that occurs in a soil or geologic unit as a variation in saturation due to seasonal climatic conditions and is identified as such in a published soil survey report or similar document.

(4) Application of ~~sludge domestic septage~~ to land having soils with greater permeability and with higher groundwater tables will be considered on a case-by-case basis, after consideration of soil pH, metal loadings onto the soil, soil buffering capacity, or other protective measures to prevent groundwater contamination.

(h) ~~Sludge domestic septage~~ must be applied by a method and under conditions that prevent runoff of ~~sewage sludge domestic septage~~ beyond the active application area and protect the quality of the surface water and the soils in the unsaturated zone.

(1) ~~Sludge domestic septage~~ must be applied uniformly over the surface of the land.

(2) ~~Sludge domestic septage~~ may not be applied to areas where permeable surface soils are less than two feet thick. The executive director will consider sites with thinner permeable surface soils, on a case-by-case basis.

(3) ~~Sewage sludge domestic septage~~ may not be applied during rainstorms or during periods in which surface soils are water-saturated, and when pooling of water is evident on the land application site. The operator of a TCEQ permitted or bulk sewage sludge site subject to the notification requirements in §312.4(b) of this title (relating to Required Authorizations or Notifications) who land applies sewage sludge on agricultural land shall submit an Adverse Weather and Alternative Plan. This plan shall detail procedures to address times when the sewage sludge cannot be applied to the land application site due to adverse weather or other conditions such as wind, precipitation, field preparation delays, and access road limitations.

(4) ~~Sludge domestic septage~~ may not be applied to areas having topographical slopes in excess of 8.0%. On a case-by-case basis, the executive director will consider sites with steeper slopes when runoff controls are proposed and utilized, incorporation of ~~sewage sludge domestic septage~~ into the soil occurs, or for certain reclamation projects.

(5) Where runoff of ~~sludge domestic septage~~ from the active application area is evident, the operator shall cease further ~~sludge domestic septage~~ application until the condition is corrected.

(6) ~~Sewage sludge Domestic septage~~ may not be applied under provisions of this section on land within a designated floodway.

(i) Either a label must be affixed to the bag or other container in which sewage sludge is sold or given away for application to the land or an information sheet must be provided to the person who receives sewage sludge sold or given away in another container for application to the land. The label or information sheet must contain the following information:

(1) the name and address of the person who prepared the sewage sludge for sale or given away in a bag or other container for application to the land;



~~(2) a statement that prohibits the application of the sewage sludge to the land except in accordance with the instructions on the label or information sheet; and~~

~~(3) the annual whole sludge application rate for the sewage sludge that does not cause the annual metal loading rates in Table 4 of §312.43(b)(4) of this title (relating to Metal Limits) to be exceeded.~~

(j) Nuisance controls.

(1) A land application site location must be selected and the site operated in a manner to prevent public health nuisances.

(2) ~~Sewage sludge~~ Domestic septage debris must be prevented from blowing or running off site boundaries or into surface waters.

(3) To prevent nuisance conditions from occurring, the operator shall:

(A) minimize dust migration from the site and access roadways; and

(B) minimize offensive odors through incorporation of ~~sewage sludge~~ domestic septage into the soil or by taking some other type of corrective action; and

~~(C) develop and implement best management practices (BMPs) to minimize off-site tracking of sewage sludge and sediment during the transport of sewage sludge material to and from the land application site or storage area; and to include at a minimum, removing tracked material, to the extent practicable, by the end of each day of operation at the site and either returning it to the site or otherwise disposing of it properly. The documented BMPs shall be retained by the operator and made by readily available for review by a TCEQ representative.~~

(4) Odor Control. Pursuant to the authority vested in the commission or executive director in §312.6 of this title (relating to Additional or More Stringent Requirements), a person who ~~prepares sewage sludge or land applies sewage sludge~~ domestic septage on agricultural land may be subject to an Odor Control Plan on a case-by-case basis.

(k) A permit or registration must specify the soil testing requirements for each application area.

(1) The testing frequency must take into account common agricultural methods of determining cover crop nutrient needs, soil pH, phytotoxicity, and concentrations of metals regulated by this chapter.

(2) No authorization may require soil testing of metals regulated by this chapter, at a frequency greater than once per five years or prior to submittal of a renewal application for a beneficial use site. Soil testing for metals regulated by this chapter may not be required for portions of the authorized site where ~~sewage sludge~~ domestic septage has not been applied since the last soil metals testing was performed.

(3) Paragraph (2) of this subsection does not apply if the executive director becomes aware of circumstances warranting increased monitoring of metals regulated by this chapter, in order to address sites where metal loading into the soil is a threat to human health or environmental quality.

(l) An operator of a ~~Class AB or Class B sewage sludge~~ domestic septage site shall post a sign that is visible from a publically accessible road or sidewalk that is adjacent to the premises on which the land application unit is located stating that a ~~sewage sludge~~ domestic septage beneficial land application site is located on the premises. The sign shall be posted three days prior to and 14 days after the commencement of land application of ~~sewage sludge~~ domestic septage and shall include the operator name, telephone number, ~~the classification of sewage sludge~~ and the TCEQ authorization number. In the event of reasonably unforeseen circumstances such as weather conditions or equipment failure that necessitate a change in a planned land application site, the required sign may be posted on the day on which ~~sewage sludge~~ domestic septage land application commences. If signs are posted less than three days prior to land application, records shall be maintained documenting the unforeseeable circumstance that necessitated the change in a planned land application site. Such records shall be retained by the operator and be readily available for review by a TCEQ representative. Records of any deviation of the posting requirements listed in this subsection and associated reasons shall be retained by the operator and be readily available for review by a TCEQ representative.

(m) All vehicles and equipment used for the transport of ~~bulk Class A, Class AB or Class B sewage sludge domestic septage~~ for land application or disposal shall be constructed, operated, and maintained to prevent the loss of liquid or solid materials during transport. An operator of a ~~Class A, Class AB or Class B bulk sewage sludge domestic septage site~~ may not accept ~~bulk sewage sludge domestic septage~~, unless the ~~domestic septage~~ sludge is transported to the land application unit in a ~~covered container with the covering firmly secured at the front and back tank truck.~~

#### 312.45 Operational Standards--Pathogens and Vector Attraction

##### (a) Pathogens.

(1) The ~~Class A or Class AB sewage sludge pathogen requirements in §312.82(a) of this title (relating to Pathogen Reduction) or Class B sewage sludge domestic septage pathogen requirements in §312.82(b) of this title~~ shall be met if ~~bulk sewage sludge domestic septage~~ is applied to agricultural land, forest, a public contact site, or a reclamation site.

~~(2) The Class A or Class AB sewage sludge pathogen requirements in §312.82(a) of this title shall be met if bulk sewage sludge is applied to a lawn or a home garden.~~

~~(3) The Class A or Class AB sewage sludge pathogen requirements in §312.82(a) of this title shall be met if sewage sludge is sold or given away in a bag or other container for application to the land.~~

(4) The requirements in §312.82(c) of this title shall be met if domestic septage is applied to agricultural land, forest, or a reclamation site.

##### (b) Vector attraction reduction.

(1) One of the vector attraction reduction requirements in §312.83(b)(1) - (10) of this title (relating to Vector Attraction Reduction) shall be met if ~~bulk sewage sludge domestic septage~~ is applied to agricultural land, forest, a public contact site, or a reclamation site.

~~(2) One of the vector attraction reduction requirements in §312.83(b)(1) - (8) of this title shall be met if bulk sewage sludge is applied to a lawn or a home garden.~~

~~(3) One of the vector attraction reduction requirements in §312.83(b)(1) - (8) of this title shall be met if sewage sludge is sold or given away in a bag or other container for application to the land.~~

(4) The vector attraction reduction requirements in §312.83(b)(12) of this title shall be met if domestic septage is applied to agricultural land, forest, or a public contact site.

#### 312.46 Frequency of Monitoring

##### ~~(a) Sewage sludge (other than domestic septage).~~

~~(1) The frequency of monitoring for the metals listed in §312.43(b)(1) - (4) of this title (relating to Metal Limits); the pathogen density requirements in either §312.82(a) or (b)(1)(C) and (b)(2) of this title (relating to Pathogen Reduction); and vector attraction reduction requirements in §312.83(b)(1) - (8) of this title (relating to Vector Attraction Reduction) are defined in Table 5.~~

~~Attached Graphic—~~

~~(2) After the sewage sludge has been monitored for two years at the frequency shown in paragraph (1) of this subsection (Table 5), the executive director may reduce the frequency of monitoring for pollutant concentrations and for the pathogen density requirements, but in no case shall the frequency of monitoring be less than once per year when sewage sludge is applied to the land. A reduction in monitoring will be allowed after agency review of a significant data set of sample results and where the city or cities generating the sewage sludge have in place a satisfactory and enforceable pretreatment program.~~

~~(3) After the sewage sludge has been monitored for two years at the frequency shown in paragraph (1) of this subsection (Table 5), the executive director may increase the frequency of monitoring for~~



pollutant concentrations and for the pathogen density requirements. An increase in monitoring will be required after agency review of a significant data set of sample results and where high pollutant or pathogen values are present in sewage sludge generated.

(b) Domestic septage applied to agricultural land, forest, or a reclamation site shall be monitored for the pathogen reduction requirements in §312.82(c) of this title (relating to Pathogen Reduction) and the vector attraction reduction requirements in §312.83(b)(12) of this title (relating to Vector Attraction Reduction).

Commented [H1]: combine with the prior subsection on Pathogen and Vector Standards?

#### 312.47 Record Keeping

Delete all of (a) of this rule since it looks like it just pertains to "sewage sludge". Subsection (b) just applies to domestic septage as follows:

(b) Domestic septage. When domestic septage is applied to agricultural land, forest, or a reclamation site, the person who applies the domestic septage shall develop the following information and shall retain the information for five years:

- (1) the location, by either street address or latitude and longitude, of each site on which domestic septage is applied;
- (2) the number of acres in each site on which domestic septage is applied;
- (3) the date and time domestic septage is applied to each site;
- (4) the nitrogen requirement for the crop or vegetation grown on each site during a 365-day period;
- (5) the rate, in gallons per acre per 365-day period, at which domestic septage is applied to each site;
- (6) The following certification statement: "I certify, under penalty of law, that the pathogen requirements in (insert either 30 TAC §312.82(c)(1) or (2)) and the vector attraction reduction requirements in (insert 30 TAC §312.83(b)(9), (10), or (12)) have been met. This determination has been made under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate the information used to determine that the pathogen requirements and vector attraction reduction requirements have been met. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment";
- (7) a description of how the pathogen requirements in either §312.82(c)(1) or (2) of this title are met;
- (8) a description of how the vector attraction reduction requirements in §312.83(b)(9), (10), or (12) of this title are met.

#### 312.48 Reporting

Unless otherwise specified by the commission, ~~sludge management domestic septage~~ facilities shall submit the following information to the Enforcement Division, the Wastewater Permitting Section of the Water Quality Division, and the appropriate regional office:

- (1) annually by September 30 of each year:
  - (A) the information in §312.47 of this title (relating to Record Keeping) for the applicable requirements;
  - (B) the information in §312.47(a)(5)(A)(i) - (iv) of this title if:
    - (i) the sewage sludge does not meet the metal concentrations in §312.43(b)(3) of this title (relating to Metal Limits);
    - (ii) 90% or more of any of the cumulative metal loading rates in §312.43(b)(2) of this title is reached at a site; or
    - (iii) ~~sewage sludge domestic septage~~ is applied to a site after 90% of any of the cumulative metal loading rates is reached at the site; and

- ~~— (C) for the Class B sewage sludge beneficial land application permit holder:~~
- ~~— (i) evidence that the permit holder is complying with the nutrient management plan developed by a certified nutrient management specialist in accordance with the United States Department of Agriculture Natural Resource Conservation Service Practice Standard Code 590;~~
- ~~— (ii) a completed Annual Sludge Summary Report Form; and~~
- ~~— (iii) proof of continuation of commercial liability insurance and environmental impairment insurance;~~
- ~~and~~
- ~~— (2) for the Class B sewage sludge beneficial land use permit holder, submit quarterly reports by the 15th day of the month following each quarter. Quarterly reports are due December 15th, March 15th, June 15th, and September 15th and must include:~~
- ~~— (A) a Quarterly Sludge Summary Report form; and~~
- ~~— (B) a computer generated quarterly report containing:~~
  - ~~— (i) the source, quality, and quantity of sludge applied to the land application unit;~~
  - ~~— (ii) the location of the land application unit, either in terms of longitude and latitude or by physical address, including the county;~~
  - ~~— (iii) the dates of delivery of Class B sewage sludge;~~
  - ~~— (iv) the dates of application of Class B sewage sludge;~~
  - ~~— (v) the cumulative amount of metals applied to the land application unit through the application of Class B sewage sludge;~~
  - ~~— (vi) crops grown at the land application unit site; and~~
  - ~~— (vii) the suggested agronomic application rate for the Class B sewage sludge.~~

**312.49 Appendix A--Procedure To Determine the Annual Whole Sludge Application Rate for a Sewage Sludge (delete this whole Appendix – if it does not apply to domestic septage)**

**312.50 Storage and Staging of Sludge at Beneficial Use Sites**

(a) Except as provided in subsection (b) of this section, storage of sludge at a beneficial land application site must not exceed 90 days. Storage is allowed only when the following requirements are carried out.

(1) Written authorization must be obtained from the executive director prior to construction of the storage area.

(2) The storage area must be operated and maintained to prevent surface water runoff and to prevent a release to groundwater. Discharge of storm water or wastewater which has come into contact with ~~sewage sludge-domestic septage~~ is prohibited. The storage area shall be designed to collect such runoff. Any runoff collected during the storage of ~~domestic septage sewage sludge~~ shall be disposed in a manner to prevent a release to groundwater.

(3) The storage area shall be designed, constructed, and operated in a manner which protects public health and the environment.

(4) The storage area must be lined to prevent a release to groundwater. Natural or artificial liners are required for leachate control. A natural liner or equivalent barrier of one foot of compacted clay with a permeability coefficient of  $1 \times 10^{-7}$  cm/sec or less must be provided. Various flexible synthetic membrane lining materials may be used in lieu of soil liners if prior written approval has been obtained from the executive director. The registrant shall furnish certification by a licensed professional engineer or licensed professional geoscientist that the completed storage area lining meets the appropriate criteria described in this section prior to using the facilities. The certification shall be signed, sealed, and dated by a licensed professional engineer or licensed professional geoscientist.

(5) The application shall outline measures to be taken to minimize vectors and to avoid public health nuisances such as odors.

(6) The storage area shall be fenced or other methods shall be used, if necessary to control access by humans or domestic animals.

(7) Berms or dikes shall be constructed to contain the waste without leakage.

(8) Domestic septage Liquid sludge must be stored in an enclosed vessel.

~~(9) Processing of sludge is prohibited unless a permit is obtained from the commission.~~

(10) In the event a person who prepares sewage sludge that is applied to the land or who applies domestic septage sewage sludge to the land, is subject to an Odor Control Plan as described in §312.44(j)(4) of this title (relating to Management Practices), that person must comply with the terms of the applicable Odor Control Plan in order to store domestic septage sewage sludge at a beneficial use site.

(b) Up to an additional 90 days of storage will be allowed with the prior approval of the appropriate Texas Commission on Environmental Quality regional office, for reasons associated with application area flooding, saturated soils, or frozen soils.

(c) Staging of domestic septage sewage sludge on-site, prior to land application, is allowable without executive director approval. Staging of domestic septage sewage sludge may only occur for a maximum of seven calendar days per location within the beneficial land application site. Up to an additional 14 days of staging domestic septage sewage sludge will be allowed with the prior approval of the appropriate Texas Commission on Environmental Quality regional office, for reasons associated with application area flooding, saturated soils, frozen soils, or equipment failure. Written records of the location of each staging area and timeframe in which domestic septage sewage sludge was staged shall be retained by the operator and be readily available for review by a TCEQ representative. The operator shall stage the domestic septage sewage sludge away from odor receptors in order to:

(1) prevent off-site dust migration from the staging area; and

(2) prevent nuisance odors.

#### SUBCHAPTER C: SURFACE DISPOSAL

##### 312.61 Applicability

(a) This subchapter applies to any person who prepares ~~sewage sludge~~ domestic septage that is placed on a surface disposal site, to the owner/operator of a surface disposal site, to domestic septage sewage sludge placed on a surface disposal site, and to a surface disposal site.

~~(b) This subchapter does not apply to sewage sludge stored on the land or to the land on which sewage sludge is stored when the storage period is two years or less and the sewage sludge is stored at a treatment works authorized for such storage.~~

~~(c) This subchapter does not apply to sewage sludge at a treatment works authorized for such storage that remains on the land for longer than two years but less than five years when the person who prepares the sewage sludge demonstrates that the land on which the sewage sludge remains is not an active sludge unit or surface disposal site. The demonstration shall include the following information, which shall be reviewed and approved by the executive director and retained by the person who prepares the sewage sludge for the period that the sewage sludge remains on the land:~~

~~(1) the name and address of the person who prepared the sewage sludge;~~

~~(2) the name and address of the person who either owns the land or leases the land;~~

~~(3) the location of the land, by latitude and longitude, street address if available, and boundary shown on a 7 1/2 minute quadrangle United States Geological Survey map;~~

~~(4) an explanation of why sewage sludge needs to remain on the land for longer than two years prior to final use or disposal;~~

~~(5) the date by which the sewage sludge will be used or disposed of. This date must clearly maintain a storage period less than five years.~~

### 312.62 General Requirements

(a) No person shall place ~~sewage sludge~~ domestic septage on an active ~~domestic septage~~ sludge land application unit unless the requirements in this subchapter are met.

(b) An active ~~domestic septage~~ sludge land application unit located within 60 meters of a fault that has displacement in Holocene time, located in an unstable area, or located in a wetland, except as provided in a permit issued pursuant to §402 or §404 of the CWA, shall close within one year from the effective date of this regulation.

~~(c)~~ © The owner/operator of an active ~~domestic septage~~ sludge land application unit shall submit a written "closure and post closure plan" to the executive director, for approval, at least 180 days prior to the date that the active ~~domestic septage~~ sludge land application unit closes. The plan shall describe how the ~~domestic septage~~ sludge land application unit will be closed and, at a minimum, shall include:

(1) a discussion of how the leachate collection system will be operated and maintained for three years after the ~~domestic septage~~ sludge land application unit closes if the ~~domestic septage~~ sludge land application unit has a liner and leachate collection system;

(2) a description of the system used to monitor for methane gas in the air in any structures within the surface disposal site and in the air at the property line of the surface disposal site, as required in §312.64(j) of this title (relating to Management Practices);

(3) a discussion of how public access to the surface disposal site will be restricted for a minimum of three years after the last ~~domestic septage~~ sludge land application unit in the surface disposal site closes.

(4) The final cover system for aerial fills (monofills) shall be composed of no less than two feet of soil. The first 18 inches or more of cover shall be of clayey soil, classification SC or CL as defined in the "Unified Soils Classification System" developed by the United States Army Corps of Engineers, compacted in layers of no more than six inches to minimize the potential for water infiltration. A CH soil may be used; however, this soil may experience excessive cracking and shall therefore be covered by a minimum of 12 inches of topsoil to retain moisture. Other types of soil may be used with prior written approval from the executive director. The final six inches of cover shall be of suitable topsoil that is capable of sustaining native plant growth and shall be seeded or sodded immediately following the application of the final cover in order to minimize erosion. Side slopes of the final cover for all above-ground disposal areas (mono-fills) shall not exceed a 25% grade (four feet horizontal to one foot vertical). Side slopes for the final cover in excess of 25% may be authorized by the executive director provided that controlled drainage such as flumes, diversion terraces, spillways, or other acceptable methods are incorporated into the final cover system design submitted to the executive director for review and approval. The final cover for the topmost portion of a unit or facility shall have a gradient of not less than 2.0% and not greater than 6.0%, and shall possess a sufficient minimum grade to preclude ponding of surface water when total fill height and expected subsidence are taken into consideration.

(d) The owner/operator shall comply with the post-closure care maintenance requirements for final cover, as detailed in paragraphs (1) and (2) of this subsection for the duration of the post-closure period for these units or sites.

(1) For a minimum of the first three years after the completion of final closure, the permittee shall retain the right of entry to and maintain all rights-of-way of a closed surface disposal site in order to conduct periodic inspections of the closed site. The owner/operator shall correct, as needed, erosion of cover material, lack of vegetative growth, leachate or methane migration, and subsidence, or ponding of water on the unit or site. If any of these problems occur after the end of the three-year post closure maintenance period or persist for longer than the first three years of post-closure care maintenance, the owner/operator shall be responsible for any corrections until the executive director determines that all problems have been adequately resolved. The executive director may reduce the post-closure

maintenance period for surface disposal sites if all wastes and waste residues have been removed during closure.

(2) Any monitoring programs (ground-water monitoring, resistivity surveys, methane monitoring, etc.) in effect during the life of the surface disposal site shall be continued during the post-closure care maintenance period.

(e) Following completion of the post-closure care maintenance period for each surface disposal site, the owner/operator shall submit to the executive director for review and approval a documented certification, signed by an independent registered professional engineer, verifying that post-closure care maintenance has been completed in accordance with the approved post-closure plan. The submittal to the executive director shall include all applicable documentation necessary for the certification of completion of post-closure care maintenance. Once approved, this certification shall be retained by the owner/operator.

(f) Deed Recordation Notification.

(1) No person shall place ~~domestic septage sewage sludge on an active domestic septage land application~~ domestic septage sewage sludge on an active domestic septage land application unit prior to recording, in the deed records of the county or counties in which the disposal takes place, the following information:

(A) a metes and bounds description of the portion(s) of the tract of land on which disposal of domestic septage sewage sludge will take place;

(B) a detailed description of the domestic septage sewage sludge which is to be disposed of;

(C) all pertinent information related to the permit to dispose of domestic septage sewage sludge, including at least the ~~permit registration~~ number and issuing agency; and

(D) the name and permanent address of the person or persons operating the facility where more specific information on the waste can be secured.

(2) Proof of recordation shall be provided to the executive director before the commission issues a permit.

(g) The commission shall require evidence of financial responsibility as it deems appropriate to assure the commission that the responsible owner or operator has sufficient assets to properly operate the site and to provide proper closure and post-closure. This assurance for the proper operation of the site may be in the form of performance bonds, letters of credit from recognized financial institutions, trust funds, or insurance.

**312.63 Metal Limits (Other Than Domestic Septage)** – this can be deleted since domestic septage is excluded from this rule

#### **312.64 Management Practices**

(a) Domestic septage shall not be placed on an active domestic septage land application unit if it is likely to adversely affect a threatened or endangered species listed under the Endangered Species Act, §4, or its designated critical habitat.

(b) An active domestic septage land application unit shall not restrict the flow of the 100-year flood nor be located within the 100-year floodway.

(c) When a surface disposal site is located in a seismic impact zone, each domestic septage land application unit in that site shall be designed to withstand the maximum recorded horizontal ground-level acceleration.

(d) An active domestic septage land application unit shall be located 60 meters or more from a fault that has displacement in Holocene time, unless otherwise approved by the commission.

(e) An active domestic septage land application unit shall not be located in an unstable area.

(f) An active domestic septage land application unit shall not be located in a wetland except as provided in permit issued under the Clean Water Act, §402 or §404.

(g) Runoff from an active domestic septage land application~~sludge~~ unit shall be collected and disposed in accordance with discharge permit requirements and any other applicable requirements. The runoff collection system for an active domestic septage land application~~sludge~~ unit shall have the capacity to handle runoff from a 25-year, 24-hour rainfall event.

(h) The leachate collection system for an active domestic septage land application~~sludge~~ unit that has a liner and leachate collection system shall be operated and maintained during the period the domestic septage land application~~sludge~~ unit is active and for three years after the sludge unit closes.

(i) Leachate from an active domestic septage land application~~sludge~~ unit that has a liner and leachate collection system shall be collected and disposed in accordance with the applicable requirements during the period the domestic septage land application~~sludge~~ unit is active and for three years after the domestic septage land application~~sludge~~ unit closes.

(j) When a cover is placed on an active domestic septage land application~~sewage sludge~~ unit, the concentration of methane gas in air in any structure within the surface disposal site shall not exceed 25% of the lower explosive limit for methane gas during the period that the domestic septage land application~~sewage sludge~~ unit is active and the concentration of methane gas in air at the property line of the surface disposal site shall not exceed the lower explosive limit for methane gas during the period that the domestic septage land application~~sludge~~ unit is active. When a final cover is placed on a domestic septage land application~~sludge~~ unit at closure, the concentration of methane gas in air in any structure within the surface disposal site shall not exceed 25% of the lower explosive limit for methane gas for three years after the domestic septage land application~~sludge~~ unit closes and the concentration of methane gas in air at the property line of the surface disposal site shall not exceed the lower explosive limit for methane gas for three years after the sludge unit closes. On a case by case basis, the executive director may consider exclusion from these requirements.

(k) A food crop, a feed crop, or a fiber crop shall not be grown on an active domestic septage land application~~sludge~~ unit, unless the owner/operator of the surface disposal site demonstrates to the commission that through additional management practices, public health and the environment are protected from any reasonably anticipated adverse effects of metals in domestic septage~~sewage sludge~~ when crops are grown.

(l) Animals shall not be grazed on an active domestic septage land application~~sludge~~ unit, unless the owner/operator of the surface disposal site demonstrates to the commission that through additional management practices, public health and the environment are protected from any reasonably anticipated adverse effects of metals in domestic septage~~sewage sludge~~ when animals are grazed.

(m) Public access to a surface disposal site shall be restricted during the period that the surface disposal site contains an active domestic septage land application~~sludge~~ unit and for a period of three years after the last active domestic septage land application~~sludge~~ unit in the surface disposal site closes. The means of restricting access to a surface disposal site shall be effective with consideration of the location of the site and adjacent land use(s).

(1) The permit application shall include an explanation of the means for restricting access to a surface disposal site.

(2) The executive director shall include, as a condition of the proposed permit, specific requirements for the means of restricting access to a surface disposal site.

(n) ~~Domestic septage~~sewage sludge placed on an active domestic septage land application~~sludge~~ unit must not contaminate an aquifer. Results of a groundwater monitoring program developed by a licensed professional geoscientist or licensed professional engineer or a certification by a licensed professional geoscientist or licensed professional engineer shall be used to demonstrate that domestic septage~~sewage sludge~~ placed on an active domestic septage land application~~sludge~~ unit does not contaminate an aquifer. The results or certification shall be signed, sealed, and dated by the licensed professional geoscientist or licensed professional engineer preparing the results or certification.



### 312.65 Operational Standards--Pathogen and Vector Attraction

~~(a) Pathogen reduction. Sewage sludge (other than domestic septage). The Class A and Class AB sewage sludge pathogen reduction requirements in §312.82(a) of this title (relating to Pathogen Reduction) or the Class B sewage sludge pathogen reduction requirements in §312.82(b)(1)(A) and (2) of this title shall be met when sewage sludge is placed on an active sludge unit, unless the vector attraction reduction requirements in §312.83(b)(11) of this title (relating to Vector Attraction Reduction) is met.~~

(b) Pathogen reduction. Domestic septage. The pathogen reduction requirement in §312.82(c)(2) of this title shall be met when domestic septage is placed on an active domestic septage land application ~~sludge~~ unit.

~~(c) Vector attraction reduction. Sewage sludge (other than domestic septage). One of the alternatives for vector attraction reduction in §312.83(b)(1) (11) of this title shall be met when sewage sludge is placed on an active sludge unit.~~

(d) Vector attraction reduction. Domestic septage. The vector attraction reduction requirement in §312.83(b)(12) of this title shall be met when domestic septage is placed on an active domestic septage land application ~~sludge~~ unit.

### 312.66 Frequency of Monitoring

~~(a) Sewage sludge other than domestic septage.~~

~~(1) When required by this subchapter, the frequency of monitoring for the metals in Table 6 and Table 7 of §312.63(a) and (b) of this title (relating to Metal Limits), the pathogen density requirements in §312.82(a) of this title (relating to Pathogen Reduction) and in §312.82(b) of this title (relating to Vector Attraction Reduction), and the vector attraction reduction requirements in §312.83(b)(1) (8) of this title, for sewage sludge placed on an active sludge unit shall be the frequency in Table 8.~~

~~Attached Graphic~~

~~(2) The commission may increase or decrease the frequency of monitoring required in paragraph (1) of this subsection after the sewage sludge is monitored for two years at the frequency in Table 8. The increase in frequency of monitoring should only increase to the next highest frequency for each two year period and then may be lowered in the same manner. In no case shall the frequency of monitoring be less than the frequency required in Table 8 if sewage sludge is placed on an active sludge unit.~~

(b) If the vector attraction reduction requirements in §312.83(b)(12) of this title are met when domestic septage is placed on an active domestic septage land application ~~sewage sludge~~ unit, each individual container of domestic septage shall be monitored for compliance with those requirements.

(c) Air in structures within a surface disposal site and at the property line of the surface disposal site shall be monitored continuously for methane gas during the period the surface disposal site contains an active domestic septage land application ~~sludge unit on which the domestic septage sewage sludge is covered~~ and for three years after a domestic septage land application ~~sludge~~ unit closes if a final cover is placed on the domestic septage ~~sewage sludge~~.

### 312.67 Record Keeping

(a) When sewage sludge (other than domestic septage) is placed on an active sludge unit.

~~(1) The person who prepares the sewage sludge shall develop the following information and shall retain the information for five years:~~

~~— (A) The concentration of each metal listed in Table 6 of §312.63(a) of this title (relating to Metal Limits) in the sewage sludge when the metal concentrations in Table 6 are met.~~

~~— (B) The following certification statement: "I certify, under penalty of law, that the management practices in 30 TAC §312.64; the pathogen requirements in (insert the citation to the specific pathogen~~

reduction requirements that are met from §312.82 of this title (relating to Pathogen Reduction)) and the vector attraction reduction requirements in (insert the citation to the specific vector attraction reduction requirements that are met from §312.83(b) of this title (relating to Vector Attraction Reduction) when one of those requirements is met) have been met. This determination has been made under my direction and supervision in accordance with the system designed to assure that qualified personnel properly gather and evaluate the information used to determine that the (specific requirements for pathogen and vector attraction reduction (when appropriate)) have been met. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."

—(C) A description of how the pathogen reduction requirements in §312.82(a) of this title are met when any of those requirements are met.

—(D) A description of how one of the vector attraction reduction requirements in §312.83(b) of this title are met when required.

—(2) The owner/operator of the surface disposal site shall develop the following information and shall retain that information for five years:

—(A) The concentration of each metal listed in Table 7 of §312.63(b) of this title in the sewage sludge when the metal concentrations in Table 7 are met.

—(B) The following certification statement: "I certify, under penalty of law, that the management practices in 30 TAC §312.64 and the vector attraction reduction requirements in (insert the citation to the specific requirements that are met from §312.83(b) of this title (relating to Vector Attraction Reduction)) have been met. This determination has been made under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate the information used to determine that the management practices (and specific requirements for vector attraction reduction (when appropriate)) have been met. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."

—(C) A description of how the management practices in §312.64 of this title (relating to Management Practices) are met.

—(D) A description of how one of the vector attraction reduction requirements in §312.83 of this title (relating to Vector Attraction Reduction) are met when required.

(b) When domestic septage is placed on an active domestic septage land application ~~sludge~~ unit.

(1) When the vector attraction reduction requirements in §312.83(b)(12) of this title (relating to Vector Attraction Reduction) are met, the person who places the domestic septage on the surface disposal site shall develop the following information and shall retain the information for five years:

(A) The following certification statement: "I certify, under penalty of law, that the vector attraction reduction requirements in 30 TAC §312.83(b)(12) have been met. This determination has been made under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate the information used to determine that the vector attraction reduction requirements have been met. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."

(B) A description of how the vector attraction reduction requirements in §312.83(b)(12) of this title (relating to Vector Attraction Reduction) are met.

(2) The owner/operator of the surface disposal site shall develop the following information and shall retain that information for five years:

(A) The following certification statement: "I certify, under penalty of law, that the management practices in 30 TAC §312.64 and the vector attraction reduction requirements in (insert the citation to the specific vector attraction reduction requirements that are met from §312.83 of this title) have been met. This determination has been made under my direction and supervision in accordance with the



system designed to ensure that qualified personnel properly gather and evaluate the information used to determine that the management practices (and vector attraction reduction requirements (when appropriate) have been met. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."

(B) A description of how the management practices in §312.64 of this title are met.

(C) A description of how one of the vector attraction reduction requirements in §312.83 of this title are met when required.

#### **312.68 Reporting**

All facilities regulated under this subchapter shall submit the information required in §312.67(a) of this title (relating to Record Keeping) to the commission by September 1 each year.

### **SUBCHAPTER D: PATHOGEN AND VECTOR ATTRACTION REDUCTION**

#### **312.81 Scope**

~~(a) This subchapter contains the requirements that must be met for a sewage sludge to be classified either Class A, Class AB or Class B with respect to pathogen reduction.~~

~~(b) This subchapter contains the site restrictions for the land on which a sewage sludge that is Class B with respect to pathogens is either land applied for beneficial use or placed on an active sludge unit.~~

(c) This subchapter contains the pathogen reduction requirements for domestic septage applied to agricultural land, forest, or a reclamation site for beneficial use and the pathogen reduction requirements for domestic septage placed on an active domestic septage land application ~~sludge~~ unit.

(d) This subchapter contains the site restrictions for the land on which domestic septage is applied for beneficial use or placed on an active domestic septage land application ~~sludge~~ unit.

(e) This subchapter contains the vector attraction reduction requirements for ~~sewage sludge and domestic septage land~~ applied for beneficial use or placed on an active domestic septage land application ~~sludge~~ unit.

#### **312.82 Pathogen Reduction**

(a) Sewage sludge--Class A and Class AB. -- delete this entire subsection (a) since it does not seem to apply to domestic septage.

~~(b) Sewage sludge--Class B--Domestic septage site restrictions.~~

~~—(1) Compliance requirements--Class B.~~

~~—(A) For a sewage sludge to be classified as Class B with respect to pathogens, the requirements in subparagraphs (B) and (C) of this paragraph must be met. As an alternative for a sewage sludge to be classified as Class B, the requirements of subparagraph (B) of this paragraph and paragraph (2) of this subsection must be met.~~

~~—(B) The site restrictions in paragraph (3) of this subsection must be met when sewage sludge that is classified as Class B with respect to pathogens is applied to the land for beneficial use.~~

~~—(C) A minimum of seven representative samples of the sewage sludge must be collected within 48 hours of the time that the sewage sludge is used or disposed of during each monitoring episode for the sewage sludge. The geometric mean of the density of fecal coliform for the samples collected must be~~

less than either 2,000,000 Most Probable Number per gram of total solids (dry weight basis) or 2,000,000 Colony forming Units per gram of total solids (dry weight basis).

(2) Processes to Significantly Reduce Pathogens (PSRP) compliance alternatives – Class B. Sewage sludge that is used or disposed of must be treated in one of the PSRP described in 40 CFR Part 503, Appendix B, or must be treated by an equivalent process approved by the EPA, so long as all of the following requirements are met by the generator of the sewage sludge:

— (A) Prior to use or disposal, all the sewage sludge must have been generated from a single location, except as provided in subparagraph (F) of this paragraph.

— (B) An independent Texas registered professional engineer must make a certification to the generator of a sewage sludge that the wastewater treatment facility generating the sewage sludge is designed to achieve one of the PSRP at the permitted design loading of the facility. The certification need only be repeated if the design loading of the facility is increased. The certification must include a statement indicating that the design meets all the applicable standards specified in 40 CFR Part 503, Appendix B.

— (C) Prior to any off-site transportation or on-site use or disposal of any sewage sludge generated at a wastewater treatment facility, the chief certified operator of the wastewater treatment facility or other responsible official who manages the PSRP at the wastewater treatment facility for the permittee, shall certify that the sewage sludge underwent at least the minimum operational requirements necessary in order to meet one of the PSRP. The acceptable processes and the minimum operational and recordkeeping requirements must be in accordance with established EPA final guidance.

— (D) All certification records and operational records describing how the requirements of this paragraph were met must be kept by the generator for a minimum of three years and be available for inspection by commission staff for review.

— (E) In lieu of a generator obtaining a certification as specified in subparagraph (B) of this paragraph, the executive director will accept from the EPA a finding of equivalency to the defined PSRP.

— (F) If the sewage sludge is generated from a mixture of sources, resulting from a person who prepares sewage sludge from more than one wastewater treatment facility, the resulting derived product must meet one of the PSRP, and meet the certification, operation, and recordkeeping requirements of this paragraph.

### (3) Site restrictions.

(A) Food crops with harvested parts totally above the land surface that touch the sewage sludge/soil mixture must not be harvested from the land for at least 14 months after the application of sewage sludge domestic septage.

(B) Food crops with harvested parts below the surface of the land must not be harvested for at least 20 months after application of domestic septage sewage sludge when the domestic septage sewage sludge remains on the land surface for four months or longer prior to incorporation into the soil.

(C) Food crops with harvested parts below the surface of the land must not be harvested for at least 38 months after application of domestic septage sewage sludge when the domestic septage sewage sludge remains on the land surface for less than four months prior to the incorporation into the soil.

(D) Food crops, feed crops, and fiber crops must not be harvested for at least 30 days after application of domestic septage sewage sludge.

(E) Animals must not be allowed to graze on the land for at least 30 days after application of domestic septage sewage sludge.

(F) Turf grown on land where domestic septage sewage sludge is applied may not be harvested for at least one year after application of domestic septage sewage sludge when the harvested turf is placed on either land with a high potential for public exposure or a lawn.

(G) Public access to land with a high potential for public exposure must be restricted for at least one year after application of domestic septage sewage sludge.

**Commented [H2]:** Keep this text since it is referenced in subsection (c) below, related to domestic septage and consolidate it all under one subsection.

(H) Public access to land with a low potential for public exposure must be restricted for at least 30 days after application of the ~~domestic septage~~ sewage sludge.

**(c) Domestic septage.**

(1) The site restrictions in subsection (b)(3) of this section must be met if domestic septage is applied to agricultural land, forest, or a reclamation site.

**Commented [H3]:** Consolidate this subsection with the relevant portions of subsection (b) above.

(2) The pH of domestic septage applied to agricultural land, forest, or a reclamation site must be raised to 12 or higher by alkali addition and, without the addition of more alkali, must remain at 12 or higher for a period of 30 minutes.

**312.83 Vector Attraction Reduction**

**(a) Compliance requirements.**

~~-(1) One of the vector attraction reduction requirements in subsection (b)(1) - (10) of this section shall be met when bulk sewage sludge is applied to agricultural land, forest, a public contact site, or a reclamation site.~~

~~-(2) One of the vector attraction reduction requirements in subsection (b)(1) - (8) of this section shall be met when bulk sewage sludge is applied to a lawn, home garden, or is sold or given away in a bag or other container.~~

~~-(3) One of the vector attraction reduction requirements in subsection (b)(1) - (11) of this section shall be met when sewage sludge (other than domestic septage) is placed on an active sewage sludge unit.~~

(4) One of the vector attraction reduction requirements in subsection (b)(9), (10), or (12) of this section shall be met when domestic septage is applied to agricultural land, forest, or a reclamation site.

(5) One of the vector attraction reduction requirements in subsection (b)(9) - (12) of this section shall be met when domestic septage is placed on an active ~~sewage sludge~~ domestic septage land application unit.

**(b) Compliance alternatives.**

~~-(1) The mass of volatile solids in the sewage sludge shall be reduced by a minimum of 38%.~~

~~-(2) If an anaerobically digested sewage sludge cannot meet the 38% volatile solids reduction requirement in paragraph (1) of this subsection, vector attraction reduction can be demonstrated by digesting a portion of the previously digested sewage sludge anaerobically in a laboratory in a bench-scale unit for 40 additional days at a temperature between 30 and 37 degrees Celsius. If at the end of the 40 days, the volatile solids in the sewage sludge at the beginning of that period is reduced by less than 17%, vector attraction reduction is achieved.~~

~~-(3) If an aerobically digested sewage sludge cannot meet the 38% volatile solids reduction requirement in paragraph (1) of this subsection, vector attraction reduction can be demonstrated by digesting a portion of the previously digested sewage sludge that has a percent solids of 2.0% or less aerobically in a laboratory in a bench-scale unit for 30 additional days at 20 degrees Celsius. If at the end of the 30 days,~~

~~the volatile solids in the sewage sludge at the beginning of that period is reduced by less than 15%, vector attraction reduction is achieved.~~

~~-(4) The specific oxygen uptake rate (SOUR) for sewage sludge treated in an aerobic process shall be equal to or less than 1.5 milligrams of oxygen per hour per gram of total solids (dry weight basis) at a temperature of 20 degrees Celsius.~~

~~-(5) Sewage sludge shall be treated in an aerobic process for 14 days or longer. During that time, the temperature of the sewage sludge shall be higher than 40 degrees Celsius and the average temperature of sewage sludge shall be higher than 45 degrees Celsius.~~

(6) The pH of sewage sludge domestic septage shall be raised to 12 or higher by alkali addition and, without the addition of more alkali, shall remain at 12 or higher for two hours and then remain at a pH of 11.5 or higher for an additional 22 hours.

~~-(7) The percent solids of sewage sludge that does not contain unstabilized solids generated in a primary wastewater treatment process shall be equal to or greater than 75% based on the moisture content and total solids prior to mixing with other materials.~~

~~-(9) The percent solids of sewage sludge that contains unstabilized solids generated in a primary wastewater treatment process shall be equal to or greater than 90% based on the moisture content and total solids prior to mixing with other materials.~~

(9) Domestic septage Sewage sludge shall ~~may~~ be injected below the surface of the land. No significant amount of the domestic septage sewage sludge shall be present on the land surface within one hour after the domestic septage sewage sludge is injected. If the sewage sludge that is injected below the surface of the land is Class A or Class AB with respect to pathogens, as described in §312.82 of this title (relating to Pathogen Reduction), the sewage sludge shall be injected below the land surface within eight hours after the sewage sludge is discharged from the pathogen treatment process.

(10) domestic septage Sewage sludge applied to the land surface or placed on a surface disposal site shall be incorporated into the soil within six hours after application or placement on the land. If the sewage sludge that is incorporated into the soil is Class A or Class AB with respect to pathogens, as described in §312.82 of this title, the sewage sludge shall be applied to or placed on the land within eight hours after the sewage sludge is discharged from the pathogen treatment process.

(11) domestic septage Sewage sludge placed on an active domestic septage land application sewage sludge unit shall be covered with soil or other material at the end of each operating day.

(12) The pH of domestic septage shall be raised to 12 or higher by alkali addition and, without the addition of more alkali, shall remain at 12 or higher for 30 minutes.

**SUBCHAPTER E GUIDELINES AND STANDARDS FOR SLUDGE INCINERATION** – delete this subchapter  
**SUBCHAPTER F DISPOSAL OF WATER TREATMENT SLUDGE** – delete this subchapter – per definition below from Chapter 312, domestic septage does not appear to be included:

(94) Water treatment sludge--Sludge generated during the treatment of either surface water or groundwater for potable use, which is not an industrial solid waste as defined in §335.1 of this title (relating to Definitions).

## SUBCHAPTER G: TRANSPORTERS AND TEMPORARY STORAGE PROVISIONS

### 312.141 Transporters--Applicability and Responsibility

(a) Rules contained in this subchapter establish standards applicable to persons, including municipalities, state and federal agencies, collecting, generating and/or transporting ~~sewage sludge, water treatment sludge, domestic septage, chemical toilet waste, grit trap waste, or grease trap waste.~~ This chapter also establishes standards applicable to persons and facilities who receive waste from transporters regulated under this subchapter. Methods of transportation shall include measures utilizing roadway, rail, and water.

(b) Transporters of waste subject to control under this subchapter shall only transport the waste types specified in subsection (a) of this section. Each transporter shall take reasonable precautions to ensure that waste handled in accordance with rules contained in this subchapter is not hazardous waste, as defined in Chapter 335 of this title (relating to Industrial Solid Waste and Municipal Hazardous Waste).

(c) The processing of wastes is ~~not~~ authorized under this subchapter, ~~except~~ for domestic septage under §312.144(e) of this title (relating to Transporters--Vehicle and Equipment).

(d) ~~These rules are not applicable to persons transporting sewage sludge that meets the metal concentration limits in §312.43(b)(3) (Table 3) of this title (relating to Metal Limits), the requirements in §312.82(a) of this title (relating to Pathogen Reduction), and one of the requirements in §312.83(b)(1)-(3) of this title (relating to Vector Attraction Reduction) and has been approved for marketing and distribution as authorized in Subchapter B of this chapter (relating to Land Application for the Beneficial Use).~~

### 312.142 Transporter Registration

(a) Persons who plan to transport ~~sewage sludge, water treatment sludge, domestic septage, or chemical toilet waste, grit trap waste, or grease trap waste~~ regulated under this subchapter shall apply for registration with the commission on forms furnished by the executive director and receive a registration from the executive director prior to commencing operations.

(b) Failure to submit a complete and accurate application or other information requested by the executive director will result in the return of the application to the applicant. Applications for transportation registrations shall include:

- (1) a complete application form(s), signed and notarized, and appropriate copies provided;
- (2) the verified legal status of the applicant(s);
- (3) the signature of the applicant(s), checked against agency requirements, in accordance with §305.44 of this title (relating to Signatories to Applications);
- (4) the attachment of technical reports and supporting data required by the application; and
- (5) any other information as the executive director or the commission may reasonably require.



(c) Persons who apply to the commission for registration and receive a registration shall maintain a copy of the registration authorization, as annotated by the executive director with an assigned registration number, at their designated place of business and in each vehicle operated under that registration. This registration shall be produced and shown to the operator of the facility receiving the waste at the time of delivery.

(d) The expiration date of the registration shall be August 31 of the year in which it expires. Registrations are required to be renewed biennially prior to the expiration date. Application for renewal shall be submitted by June 15 of the year in which the registration expires. Any registrant shall notify the executive director in writing within 15 days of cessation of operation and request that the registration be cancelled, and request all forms and reports needed to report waste hauled during the period of registration.

(e) A new registration application is required to be submitted within 15 days of the following, whereupon the old registration number will be voided and the old registration cancelled:

(1) change in ownership of the operating entity; or

(2) determination by the executive director that operations or management methods are no longer adequately described by the existing registration; or

(3) failure of the registrant to submit an annual summary report.

(f) Transporters shall notify the executive director, by letter, within 15 days of the following changes of their operation:

(1) the office or place of business is moved or its address or telephone number changes;

(2) the name of the operating entity is changed; or

(3) a transporter plans to handle a waste not included in the existing registration.

(g) The commission may revoke or void a registration for cause as provided in §312.150 of this title (relating to Penalties). An opportunity for a formal hearing on the revocation may be requested by the registrant within 20 days after a Notice of Revocation has been sent from the executive director to the last known address of the registrant. If the registration is revoked or voided, a transporter shall not continue to transport the wastes regulated under this subchapter.

(h) An applicant owing delinquent fees or an applicant who has failed to submit required reports will not be eligible to renew their registration to transport waste until all fees and reports are submitted and accepted by the executive director.

(i) A registrant failing to submit the annual summary report by the date due is subject to payment of the maximum fees specified in §312.9(c) of this title (relating to ~~Sludge~~ Domestic Septage Fee Program).

(j) The commission will issue, beginning February 1, 1995, authorization stickers for all registered motor transport vehicles. The commission will charge a fee of \$10 per motor transport vehicle.

#### **312.143 Transporters--Delivery Requirement and Full Pump-out Requirement**

Transporters shall deposit wastes at a facility designated by or acceptable to the generator where the owner or operator of the facility agrees to receive the wastes and the (Texas) facility has written authorization by permit or registration issued by the executive director to receive wastes. In this regard, "authorization by the executive director" means the executive director or commission has given its approval by rule, permit, letter, or other document that identifies the individual facility or class of facilities to receive that specific waste or class of waste. ~~Each grit trap and grease trap pumped shall be fully evacuated unless the trap volume is greater than the tank capacity on the vacuum truck in which case the transporter shall arrange for additional transportation capacity so that the trap is fully evacuated within a 24 hour period. If a transporter cannot fully evacuate a grit trap or grease trap because the trap volume is greater than the tank capacity on the truck, the transporter shall arrange for additional transportation capacity to ensure the trap is fully evacuated within the 24 hour period following the transporter's inability to fully evacuate the trap.~~

#### **312.144 Transporters--Vehicle and Equipment**

(a) Marking and identification. Owners or operators of specially equipped vacuum pump trucks, tanks, or containers used for the collection and/or over-the-road transportation of wastes regulated under this subchapter shall prominently mark such trucks, tanks, or containers to show the following:

- (1) company name;
- (2) telephone number;
- (3) authorization stickers (motor vehicles only); and
- (4) the commission assigned registration number on both sides of the vehicles or receptacle.

(A) The registration number shall be a minimum of two inches in height, in block numbers permanently affixed. The registration number must be clearly visible at a distance of 50 feet.

(B) The company name and phone number, authorization stickers, and the registration number shall be removed from the trucks, tanks, or containers, by the registrant, when it is no longer authorized by the commission or leaves the control of the person(s) holding the registration.

(b) Sanitation standards. All vehicles and equipment used for the collection and transportation of the wastes regulated under this subchapter shall be constructed, operated, and maintained to prevent loss of liquid or solid waste materials and to prevent health nuisance and safety hazards to operating personnel and the public. Collection vehicles and equipment shall be maintained in a sanitary condition to preclude nuisance conditions such as odors and insect breeding.

(c) Mixing of incompatible wastes. Mixing of incompatible wastes within the same container is prohibited. Transporters shall not use the same container or pumping equipment to collect or transport incompatible waste without first emptying and cleaning the container and equipment of all previously handled wastes. ~~For purposes of this subsection, incompatible waste are wastes which have different processing, storage, or disposal requirements. However, transporters may mix wastes with different characteristics provided the facility to which the waste is being transported is authorized to store, process, or dispose of such mixed wastes.~~

(d) Site gauges. All closed vehicles, tanks, or containers used to transport liquid wastes regulated by this subchapter shall have sight gauges maintained in a manner which can be used to determine whether or not a vehicle is loaded and the approximate capacity. Gauges are not required to read in gallons or liters, but shall show what percentage of the tank capacity is filled. An alternate method to measure actual volumes may be utilized with prior written approval from the Executive Director.

(e) Septage transport. If the vehicles, tanks, or containers are used to transport domestic septage to a beneficial use site, the registrant shall keep records showing how the domestic septage met the pathogen and vector attraction reduction requirements listed in §312.82(c) of this title (relating to Pathogen Reduction) and §312.83 of this title (relating to Vector Attraction Reduction). Copies of records pertaining to the pathogen and vector attraction reduction requirements shall be maintained on the vehicles for a minimum of one month and at the beneficial use site and transporter office for a minimum of five years.

(f) Discharge valves. All closed vehicles, tanks, or containers used to transport liquid wastes regulated by this subchapter shall prominently mark all discharge valves and ports. All discharge ports shall be visible and readily accessible.

(g) Inspection. All transport vehicles shall include, but are not limited to, trucks, portable tanks, trailers, barges, or similar transport vehicles/receptacles and are subject to inspection by commission staff authorized by the executive director. If a transport vehicle fails the inspection, the authorization sticker and the commission assigned registration number are to be removed from the vehicle and that vehicle is not authorized to transport waste until the vehicle is reinspected and passes.

#### **312.145 Transporters--Recordkeeping**

(a) Trip tickets. Persons who collect and transport waste subject to control under this subchapter shall maintain a record of each individual collection and deposit. Such records must be in the form of a trip ticket. Similar documentation may be used with written approval by the executive director. The trip ticket must include:

- (1) name, address, telephone number, and commission registration number of transporter;
- (2) name, signature, address, and telephone number of the person who generated the waste and the date collected;
- (3) type and amount(s) of waste collected or transported;
- (4) name and signature(s) of responsible person(s) collecting, transporting, and depositing the waste;
- (5) date and place where the waste was deposited;
- (6) identification (permit or site registration number, location, and operator) of the facility where the waste was deposited;
- (7) name and signature of facility on-site representative acknowledging receipt of the waste and the amount of waste received; and



(8) the volume of the ~~grease and grit trap or the septic tank.~~

(b) Maintenance of records and reporting.

(1) Trip tickets. Trip tickets must be divided into five parts and records of trip tickets must be maintained as follows.

(A) One part of the trip ticket must have the generator and transporter information completed and be given to the generator at the time of waste pickup.

(B) The remaining four parts of the trip ticket must have all required information completely filled out and signed by the appropriate party before distribution of the trip ticket.

(C) One part of the trip ticket must go to the receiving facility.

(D) One part of the trip ticket must go to the transporter, who shall retain a copy of all trip tickets showing the collection and disposition of waste.

(E) One copy of the trip ticket must be returned by the transporter to the person who generated the waste within 15 days after the waste is received at the disposal or processing facility.

(F) One part of the trip ticket must go to the local authority, if needed.

(2) Record retention. Copies of trip tickets must be retained for five years and be readily available for review by commission staff or be submitted to the executive director upon request.

(3) Rail or barge transport. Persons who transport waste via rail or barge may use an alternate recordkeeping system, if approved by the executive director.

(4) Reporting. By July 1, transporters must submit to the executive director an annual summary of their activities for the previous period of June 1 through May 31, showing the following:

(A) amounts and types of waste collected;

(B) disposition of such wastes; and

(C) amounts and types of waste delivered to each facility.

(c) Discrepancies. A facility that receives waste must note any significant discrepancies on each copy of the trip ticket.

(1) Trip ticket discrepancies are differences between the quantity or type of waste designated on the trip ticket, and the quantity or type of waste a facility actually received. Significant discrepancies in type are obvious differences that can be discovered by inspection or waste analysis. Significant discrepancies in quantity are:

~~—(A) for bulk weight, variations greater than 10% in weight; and~~

(B) for liquid waste, any variation greater than 15% in gallons.

(2) Upon discovering a significant discrepancy, the transporter must attempt to reconcile the discrepancy with the waste generator or owner or operator of the receiving facility (e.g., with telephone conversations). If the discrepancy is not resolved within 15 days after delivering the waste, the transporter must immediately submit to the executive director a letter describing the discrepancy and attempts to reconcile it, and a copy of the trip ticket.

(d) Notification. A facility that receives waste from a transporter that cannot produce a registration acknowledgment under §312.142(c) of this title (relating to Transporter Registration) must notify the appropriate regional office of the commission within three days of the waste receipt of the transporter's failure to produce a current registration authorization.

(e) Local ordinances. Where local ordinances require controls and records substantially equivalent to or more stringent than the requirements of subsection (a) of this section, transporters may use such controls and records to satisfy the commission's requirement under this section.

#### **312.146 Transporters--Discharge or Spills**

In the event of a discharge or spill of waste during collection or transportation, the collector or transporter must take appropriate action to protect human health and the environment, e.g., notify local law enforcement and health authorities; dike the discharge area; clean up any waste discharge that occurs during transportation; or take such action as may be required or approved by federal, state, or local officials having jurisdiction so that the waste discharge no longer presents a public health or environmental problem. Transporters are responsible for reporting certain spills to the executive director in accordance with requirements of the State of Texas Oil and Hazardous Substance Spill Contingency Plan and the Texas Water Code, Chapter 26.039.

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#### **312.147 Temporary Storage**

(a) Transporters who store waste in a mobile closed container (container on wheels) shall not store the waste for more than four days.

(b) Transporters who temporarily store waste at a fixed or permanent site shall obtain approval in writing from the executive director prior to engaging in such activities. The storage site shall comply with the following standards.

(1) The temporary storage of waste shall not exceed 30 days.

(2) The use of lagoons and/or in-ground storage tanks are not authorized under the provision of this section.

(3) ~~If the waste is not, must be stored in a closed vessel, the location of the storage site shall meet the buffer zone requirement in §312.44(d) of this title (relating to Management Practices).~~

(4) The storage of waste shall not cause or contribute to the harm of a threatened or endangered species of plant, fish, or wildlife or result in the destruction or adverse modification of the critical habitat of a threatened or endangered species.

(5) The waste shall be stored by a method and under conditions that prevent runoff and protect the quality of the surface water and groundwater.

(6) The storage site shall not be located on land within a designated base flood zone (100-year floodplain).

(7) A storage site location shall be selected and the site operated in a manner to prevent public health nuisances. Where nuisance conditions exist, the operator shall take necessary action to abate such nuisances.

#### **312.148 Secondary Transportation of Waste**

Persons who engage in the secondary transportation of waste (meaning receiving waste from other transporters and transporting the waste to a disposal, beneficial use, or processing site) shall transfer the waste at a commission's registered or permitted Type V transfer station only.

#### **312.149 Interstate Transportation**

(a) Persons who engage in the transportation of wastes (subject to regulation under this subchapter) from Texas to other states or from other states to Texas, or persons who collect or transport such waste in Texas but have their place of business in another state, shall comply with all the requirements for transporters contained in §§312.141-312.150 of this title (relating to Transporters and Temporary Storage Provisions). If such persons also engage in any activity of managing such wastes in Texas by storage, processing, beneficial use, or disposal, they shall follow the applicable requirements of this chapter for such activities.

(b) Prior to approval of a transporter registration by the executive director, persons who engage in the transportation of wastes (subject to regulation under this subchapter) from Texas to other states or from other states to Texas, shall submit to the executive director copies of authorization(s) that allow transportation and/or disposal of waste in another state(s), including the state in which the office or place of business is located.

#### **312.150 Penalties**

Failure of a transporter to properly and correctly maintain records, trip tickets, or other documents; or failure of a transporter to submit to the executive director correct information on the annual summary report or on an application for registration by the required due date; or unauthorized discharges of ~~sewage sludge, water treatment sludge, domestic septage, chemical toilet waste, grit trap waste, or grease trap waste~~ shall be sufficient cause for the commission to void the transporter's registration and authorization to transport such wastes. The commission may also take any other action authorized by law to secure compliance, including the assessment of administrative penalties or seeking of civil penalties as prescribed by law and the rules of the commission.